S. Hrg. 98-1234

# VETERANS' ADMINISTRATION BENEFIT RATE INCREASE AND PROGRAM IMPROVEMENT ACT OF 1984

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# HEARING

BEFORE THE

## COMMITTEE ON VETERANS' AFFAIRS
## UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

SECOND SESSION

ON

## S. 2267, S. 2268, S. 2451, S. 2736, S. 2737, S. 2759, S. 2760 and Related Bills

JUNE 27, 1984

Printed for the use of the Committee on Veterans' Affairs

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# VETERANS' ADMINISTRATION BENEFIT RATE INCREASE AND PROGRAM IMPROVEMENT ACT OF 1984

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WEDNESDAY, JUNE 27, 1984

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
*Washington, DC.*

The committee met, pursuant to notice, at 10:15 a.m., in room SR-418, Russell Senate Office Building, Hon. Alan K. Simpson (chairman of the committee) presiding.

Present: Chairman Alan K. Simpson, Senators Strom Thurmond and Rudy Boschwitz.

## OPENING STATEMENT OF HON. ALAN K. SIMPSON, CHAIRMAN OF THE SENATE COMMITTEE ON VETERANS' AFFAIRS

Chairman SIMPSON. The hearing will come to order.

We are holding this hearing today to consider cost-of-living adjustments for 1985 for the VA's disability compensation and DIC programs, a 10-percent rate increase for the VA educational programs, and various other matters. Now, our hearings and deliberations on the VA compensation COLA for fiscal year 1984 are really barely over and the 3.5-percent increase became effective on April 1. Now we are considering another COLA, 4.7 percent for fiscal year 1985. This is because Congress has determined that the fiscal year 1985 increase shall take effect on December 1, 1984, in order to line up the payments of disability compensation and DIC with other of the Nation's income maintenance programs which are indexed.

And we continue to preserve special consideration for our service-connected disabled veterans and their survivors and children. I strongly believe that they are indeed in a class by themselves, to be considered in a very special way amongst the categories of veterans. I know that is sometimes startling, but it is something I deeply feel, because they have made a unique contribution and sacrifice to the Nation's freedom. Some of the rest of us, and I include myself, have not made this unique sacrifice, even though we are veterans and have served with distinction.

Today we reaffirm that commitment to that especially deserving category of veterans. We also consider the needs of veterans and certain dependents and survivors who wish to take advantage of their VA educational benefits.

Chairman Sonny Montgomery and myself are working diligently on that issue as we have dealt with the GI bill in the Senate recently.

Senator Cranston and I have proposed a rate increase of 10 percent for such educational programs in order to help keep up with inflation. That increase would become effective October 1984. Senator Cranston has proposed a variety of bills which would increase the rates of certain benefits for disabled veterans, would extend the Veterans' Readjustment Appointment [VRA] Program, and the Veterans' Job Training Act of 1983.

We do need to hear testimony as to whether these are more than merely excellent or thoughtful ideas. We must determine whether they are truly needed.

A final proposal by my good friend from California would provide for a trial work period for veterans in receipt of 100-percent disability compensation on account of unemployability. This trial work period proposal is modeled on a program for recipients of Social Security disability benefits. That proposal would greatly change current VA policy. Although I am very interested in hearing testimony on this issue, I believe we want to look closely into this entire issue of disincentives. This committee needs to have some extensive hearings on that subject. I'm sure that my colleagues would agree.

I am concerned about dealing with current policy in an area such as this, without a deeper or thorough examination of all of the issues involved. We can do that.

And finally, we will consider two VA proposals which have not been introduced, but I believe might merit consideration by the committee, and I look forward to hearing the testimony of our witnesses today on those matters before the committee. I remind you all if you would please summarize your statements in 5 minutes. I assure you that your entire written text will appear in the printed hearing record.

Before I go on let me recognize "Mr. Veteran" on this committee in every sense; a Senator who has been so supportive of me here and in my work on the Judiciary Committee, Senator Strom Thurmond.

Senator THURMOND. Thank you very much, Mr. Chairman.

It is my pleasure to be here today to receive testimony on pending legislation pertaining to the Veterans' Administration's compensation and education programs.

I want to commend you, Mr. Chairman, for your many fine efforts on behalf of veterans since becoming chairman of this committee. Our Nation's veterans benefit greatly from your service and your excellent leadership.

Among the pieces of legislation which are before the committee for consideration today are S. 2736, a bill providing for a 4.7-percent cost-of-living increase in the rates of disability compensation and dependency and indemnity compensation, and S. 2737, a bill providing for a 10-percent rate increase for the educational programs of the Veterans' Administration.

Mr. Chairman, a nation which is grateful to its veterans for their service and sacrifice should be willing to compensate adequately those persons who are disabled as a result of their military service. Similarly, it is fitting that our country acknowledge the great debt owed to its veterans by providing educational benefits which assist returning servicemen in their readjustment to civilian life. The increases proposed in S. 2736 and S. 2737 ensure that the benefits which are received by our veterans and their dependents keep pace with inflation. I have supported appropriate increases in the past and will continue to do so.

Mr. Chairman, I look forward to reading the testimony here, since I have another engagement. And I want to express my deep appreciation again to you for your courtesy in allowing me to present this statement.

Chairman **SIMPSON**. Thank you very much, sir. I appreciate your being here, as always, with your busy schedule.

Senator **THURMOND**. Thank you, sir.

Chairman **SIMPSON**. Thank you, Strom.

Without objection, I will place in the hearing record at this point the prepared statement of Senator Alan Cranston, ranking minority member of this committee, the bills S. 2267, S. 2268, S. 2451, S. 2736, S. 2737, S. 2759, and S. 2760, the introductory statements, and agency reports thereon.

[The prepared statement of Hon. Alan Cranston, ranking minority member of the Senate Committee on Veterans' Affairs, the bills previously referred to, the introductory statements, and agency reports thereon, follow:]

## PREPARED STATEMENT OF HON. ALAN CRANSTON, RANKING MINORITY MEMBER OF THE SENATE COMMITTEE ON VETERANS' AFFAIRS

Good morning. It's a pleasure to join in welcoming each of you to this hearing this morning during which we will focus on a great many issues -- including issues relating to service-connected disability compensation programs, which are at the heart of our system of veterans' benefits.

The priorities this Committee attaches to the needs of service-connected disabled veterans and the survivors of those who have made the ultimate sacrifice is well known and well established. The almost 2.3 million veterans who suffer from disabilities resulting from their service and the 342,000 survivors of those who died from service-connected causes are and will remain our number one priority.

Thus, I'm delighted to join as the principal cosponsor, with our Committee's distinguished Chairman, of S. 2736, a bill to grant a compensation cost-of-living increase to these top priority categories of beneficiaries. I'm equally delighted that this increase would be effective on December 1 of this year -- rather than as the Administration has proposed, on April 1. Our bill conforms to the provisions of section 108 of Public Law 98-223 -- provisions which I authored last year -- expressing the sense of the Congress that the effective date for compensation COLA's in FY 1985 and subsequent fiscal years should be December 1, which is the same as the effective date for the social security and VA pension COLA's.

I also want to make note of the provisions of S. 2736 that would provide that if the social security COLA is not the 4.7 percent that the Congressional Budget Office projects that it will be, the VA compensation COLA's will be adjusted accordingly. This will mean that we would be keeping intact the practice of granting VA compensation COLA's in the same percentage amount as social security and VA pension COLA's.

In addition, I am pleased to join with the distinguished Chairman in sponsoring S. 2737, a measure to increase rates of GI Bill and vocational rehabilitation training allowances. The increase provided by this measure -- consistent with the budget recommendations this Committee made in March -- would be 10 percent, effective on October 1, 1984. As we noted in February, although this amount is somewhat less than the Administration has finally proposed and than the amount I proposed in S. 9 which I introduced in January of 1983, it would take effect three months sooner than the Administration's proposal. This means that more assistance will be available to individual veterans throughout the upcoming fiscal year and that the assistance will be available near the beginning of the school year when costs of education are greatest.

As a result of the amendment that the Chairman and I offered on the floor, the Senate-passed First Concurrent Resolution on the Budget for FY 1985 provides room for the increase. The need to provide for this increase is undisputed. Indeed, since 1977 -- when GI Bill rates were increased by 6.5 percent -- the Consumer Price Index has risen almost 68 percent. In contrast, the GI Bill rates have only been increased once when, in 1981, we provided for a two-tiered, 10-percent increase.

I believe it is most appropriate, having just celebrated the 40th anniversary of the GI Bill, for us to be considering this increase.

The agenda includes a number of measures which I have introduced.

First, S. 2267, which I introduced on February 7, would grant an increase in the automobile assistance allowance. The last time that this program of assistance was increased was in 1981 when it was raised from $3,800 to $4,400. My proposal, which is cosponsored by Senators Randolph, Matsunaga, and DeConcini, would increase the one-time grant from $4,400 to $4,840.

Second, S. 2268, also introduced on February 7, and also cosponsored by Senators Randolph, Matsunaga, and DeConcini, as well as Senator Byrd would provide for a three-year extension of the Veterans Readjustment Appointment authority. This very successful program -- which I authored in 1973 -- has provided hundreds of thousands of Vietnam-era veterans with employment opportunities in the Federal Government. It is scheduled to expire at the end of September, and I believe an extension is clearly merited.

Third, S. 2451, a measure that would increase amounts of assistance available under the VA's specially adapted housing programs and the home-loan guaranty programs. The level of assistance under the major specially adapted housing program -- the so-called "wheel chair home" program -- was last increased in 1981 pursuant to provisions I authored, and the maximum level of assistance available for home adaptations for veterans with the loss of both upper extremities or who suffer from blindness has never been increased. S. 2413 would increase the levels of assistance under these two programs from $32,500 and $5,000, respectively, to $38,800 and $6,000. Also, the VA's maximum home loan guaranty -- last increased in 1980 -- would be increased from $27,500 to $35,000 for conventional home loans and $22,000 for manufactured home loans. This measure is derived from S. 2264 and S. 2265 -- measures which I introduced on February 7 but which were mis-referred to the Banking Committee -- and is cosponsored by Senators Randolph, Matsunaga, DeConcini, and Sarbanes.

Fourth, S. 2760, which I introduced with Senator DeConcini on June 13, would provide for a six-month extension of the Emergency Veterans Job Training Act of 1983. I believe that such an extension is necessary if we are to permit the money that has been appropriated for the conduct of that program to meet the needs of veterans who are participating or attempting to participate in the program.

Fifth and finally, S. 2759, which I also introduced on June 13, would provide a "trial-work period", similar to that which exists under the Social Security Act disability programs, for veterans who are in receipt of 100-percent compensation on the basis of individual determination of unemployability.

I look forward to studying carefully the testimony of each of today's witnesses. I will have a number of questions to pose -- both this morning and for the record. I would urge all those who are asked to respond for the record to return their responses as promptly as possible. We will need to act promptly on these measures and to move very expeditiously in order to secure enactment prior to their effective dates.

Mr. Chairman, I ask unanimous consent that each of the measures to which I've referred and my introductory statements on them be printed at an appropriate point in the hearing record.

98TH CONGRESS
2D SESSION

# S. 2267

To amend title 38, United States Code, to increase the maximum amount of the automobile assistance grant provided to certain severely, service-connected disabled veterans.

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 7 (legislative day, FEBRUARY 6), 1984

Mr. CRANSTON (for himself, Mr. RANDOLPH, Mr. MATSUNAGA, and Mr. DECONCINI) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

---

# A BILL

To amend title 38, United States Code, to increase the maximum amount of the automobile assistance grant provided to certain severely, service-connected disabled veterans.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) section 1902(a) is amended by striking out "$4,400" and inserting in lieu thereof "$4,840".

(b) The amendment made by this Act shall take effect on October 1, 1984.

[From the Congressional Record, Vol. 130, NO. 12, p. S1083--Senate, February 7, 1984]

### VETERANS' AUTOMOBILE ASSISTANCE ALLOWANCE INCREASE

Mr. CRANSTON. Mr. President, as the ranking minority member of the Committee on Veterans' Affairs, I am introducing S. 2267, a bill to provide a counterinflationary increase in the maximum amount of the automobile assistance allowance provided by the Veterans' Administration to veterans with certain severe service-connected disabilities. This bill would increase by 10 percent, the allowance from $4,400 to $4,840, effective October 1, 1984. Joining me as cosponsors are Senators RANDOLPH, MATSUNAGA, and DECONCINI.

The program of automobile assistance—now codified in chapter 39 of title 38, United States Code—was established by the Congress in Public Law 79-663, enacted in 1946. Under this program, veterans who have suffered the service-connected loss or loss of use of one or both feet, or one or both hands, or service-connected blindness are entitled to a one-time VA grant to assist them in purchasing an automobile. This is a most deserving category of veterans, and I believe all of my colleagues would agree that this benefit for them should not be permitted to be diminished over the years by the rising cost of a new car.

That was the position of the Congress in 1970 when it enacted Public Law 91-666, which I authored and which increased, effective January 11, 1971, from the original $1,600 to $2,800 the maximum amount of the allowance payable toward the purchase of an automobile or other conveyance. According to the Senate report accompanying the Senate version of that legislation—Senate Report No. 91-1232, page 14—the purpose of the 1971 increase was "to reestablish, to an effective degree, the comparability which originally existed between the cost of an automobile or other conveyance and the monetary assistance provided for its purchase."

In 1974, 1978, and 1981, increases—based on proposals I authored—were enacted into law by Public Laws 93-538, 95-479, and 97-66, respectively. Since the effective date of the last increase, October 1, 1981, the Bureau of Labor Statistics' Consumer Price Index component for new automobiles has risen by 6 percent. In addition, the CPI is projected to rise between 4 and 5 percent in fiscal year 1984.

Thus, Mr. President, the measure I am introducing today would increase the automobile allowance from $4,400 to $4,840—an increase of $440. This is a 10-percent increase, which would protect the value of this benefit from being eroded by inflation.

According to the VA, 863 veterans received automobile assistance allowances in fiscal year 1983 and the average benefit payment was $4,350. In fiscal years 1984 and 1985, it is estimated that 800 and 700 veterans, respectively, will receive this allowance and that the average benefit payment will be the maximum amount—$4,400—in each year. It should be noted that, based on the estimated number of awards in fiscal year 1985, our proposal to increase the allowance by $440 would result in very little increased cost—only $308,000 in that year.

Mr. President, I ask unanimous consent that the text of S. 2267 be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

* * * * *

[74]

COMMITTEE ON VETERANS' AFFAIRS, U.S. SENATE

Office of the
Administrator
of Veterans Affairs

Washington DC 20420

Veterans
Administration

MAY 7 - 1984

Honorable Alan K. Simpson
Chairman, Committee on
Veterans' Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

I am pleased to respond to your request for the views of the Veterans Administration on S. 2267, a bill that would increase to $4,840 the maximum assistance the Veterans Administration may provide to certain severely service-disabled veterans for the purchase of automobiles. We strongly favor an increase in the allowance, but we believe a greater increase than that proposed in S. 2267 is in order.

Under chapter 39 of title 38, United States Code, the Veterans Administration is responsible for administering a program which assists certain severely disabled veterans (and certain persons on active duty in the Armed Forces) purchase automobiles. To qualify for benefits under this program, an individual must have one of the following disabilities resulting from an injury incurred or disease contracted in or aggravated by active military service: (1) the loss or permanent loss of use of one or both feet, (2) the loss or permanent loss of use of one or both hands, or (3) permanent impairment of vision of statutorily specified degree.

Presently, under 38 U.S.C. § 1902(a), a maximum award of $4,400 is payable toward the purchase of an automobile. (Such an award is also payable to an eligible person who cannot qualify to operate an automobile if the vehicle to be purchased will be operated for the eligible person by someone else.) This purchase allowance is payable on a one-time basis only. In addition, the law also authorizes the Administrator to provide these and certain other eligible persons the adaptive equipment necessary to assure the safe operation of their vehicles, assistance not restricted to once-only entitlement.

Honorable Alan K. Simpson

The automobile assistance allowance was last adjusted in 1981, when, with the enactment of Pub. L. No. 97-66, the maximum allowable award was increased from $3,800 to the present level. Since that last increase, the average cost of new automobiles in this country has increased significantly. According to the Bureau of Economic Analysis, Department of Commerce, the average costs of new cars sold in the United States from 1981 through 1983 were as follows:

| | |
|---|---|
| 1981: | $8,929 |
| 1982: | $9,853 |
| 1983: | $10,527 |

These figures show an increase of almost 18% in automobile costs during that period. Given the magnitude of this price increase, we certainly agree that an adjustment of the VA automobile assistance allowance is in order. However, we believe that the increase to $4,840 proposed in S. 2267 is less than is needed. A bill recently introduced in the House, H.R. 4890, would increase the maximum automobile assistance allowance to $5,000, an increase of nearly 14%, in contrast with the 10% increase proposed in S. 2267. Because the increase proposed in H.R. 4890 more closely approximates the actual increase which has occurred in new car costs since 1981, the Veterans Administration prefers the House bill to S. 2267.

We estimate the five-year costs of S. 2267 would be as follows:

| Fiscal Year | Grants Affected | Cost ($000) |
|---|---|---|
| 1985 | 700 | $308 |
| 1986 | 600 | 264 |
| 1987 | 500 | 220 |
| 1988 | 400 | 176 |
| 1989 | 350 | 154 |
| | | $1,122 |

The Veterans Administration supports an increase in the maximum automobile assistance allowance, but as explained above, we believe there is more justification for the benefit level proposed in H.R. 4890.

Advice has been received from the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

Everett Alvarez
Deputy Administrator - For
HARRY N. WALTERS
Administrator

98TH CONGRESS
2D SESSION

# S. 2268

To amend title 38, United States Code, to extend the authority for veterans readjustment appointments.

---

## IN THE SENATE OF THE UNITED STATES

FEBRUARY 7 (legislative day, FEBRUARY 6), 1984

Mr. CRANSTON (for himself, Mr. RANDOLPH, Mr. MATSUNAGA, and Mr. DECONCINI) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

---

# A BILL

To amend title 38, United States Code, to extend the authority for veterans readjustment appointments.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 2014(b)(2) of title 38, United States Code, is amended by striking out "1984" and inserting in lieu thereof "1987".

[From the Congressional Record, Vol. 130, No. 12, pp. S1083-S1084--Senate, February 7, 1984]

### EXTENSION OF VETERANS' READJUSTMENT APPOINTMENT AUTHORITY

Mr. CRANSTON. Mr. President, as the ranking minority member on the Veterans' Affairs Committee, I am introducing today S. 2268, a bill to extend for 3 additional years the authority set forth in section 2014(b) of title 38, United States Code, for veterans readjustment appointments—VRA's. Joining with me as original cosponsors are Senators RANDOLPH, MATSUNAGA, and DECONCINI.

The VRA authority, which would otherwise expire on September 30, 1984, permits certain disabled Vietnam-era veterans and educationally disadvantaged Vietnam-era veterans to be given excepted appointments in the Federal civil service. The purpose of the VRA authority is to assist these veterans by making it possible for them to be hired noncompetitively into the Federal civil service and to develop additional skills through a program combining education and training with the opportunity for a regular career appointment.

On March 26, 1970, President Nixon issued Executive Order No. 11521, which established a special civil service appointment authority for certain veterans and disabled veterans of the Vietnam era who were discharged after April 9, 1969. Under that original authority, the eligibility requirements specified that in order to be considered for an appointment a veteran must be qualified for the position, must have completed no more than 14 years of education, must have served on active duty during the Vietnam era, and generally must have been separated from the service for 1 year or less. Veterans who met these eligibility requirements could be given a VRA to any position in the competitive service at or below the general schedule 5—GS-5—level or its equivalent. A veteran who satisfactorily completed 2 years of substantially continuous service under a VRA and an education or training program was converted to career-conditional employment and automatically acquired a competitive status for civil service purposes.

In 1973, I authored legislation, based on this model, that was enacted in Public Law 93-508. It codified the VRA authority as section 2014(b) of title 38, extended the eligibility period for certain veterans who enrolled in a program of education within 1 year after release from active duty, and provided for the continuation of the program through June 30, 1978.

In connection with the Veterans' Program Extension Act of 1978, Public Law 95-520, I authored provisions—based upon legislation submitted by the administration—to extend the VRA program substantially. Section 6(b) of Public Law 95-520 extended eligibility to all Vietnam-era veterans with no more than 14 years of education, not just those separated after April 9, 1969, and eliminated the maximum limitation on the number of years of education for those Vietnam-era veterans with service-connected disabilities and those who were discharged or released because of a service-connected disability. In addition, the measure raised the grade-level limitation for VRA's from GS-5 to GS-7, expanded requirements for reporting on the use of this authority, and extended the program for 3 years through September 30, 1981.

In 1981, I authored provisions, enacted in Public Law 97-72, that further extended the authority through September 30, 1984.

Since the inception of this very successful program in 1970, VRA's have provided employment opportunities for more than 200,000 Vietnam-era veterans. However, it should be stressed that the VRA program does not provide for the creation of additional Government jobs. All VRA positions are regular civil service positions that count against an agency's staffing ceiling. Federal agencies' participation in the program is influenced by such factors as the agency's interest in providing eligible veterans with VRA opportunities, budgetary considerations, and the types of positions available that attract the interest and are compatible with the qualifications of VRA eligibles.

The July 1983 report on the VRA authority prepared by the Office of Personnel Management—OPM—pursuant to the statutory reporting requirements, indicates that the VRA authority continues to be of significant value in terms of assisting educationally disadvantaged and service-connected disabled Vietnam-era veterans in finding work. During the 6-month period from April through September 1982, the 12 executive departments and 9 independent agencies that participated in the program reported a total of 7,646 hires under the VRA authority—or about 3.5 percent of all new hires made by those 21 agencies during that period. Of these VRA appointments, 12 percent—or 919—were service-connected disabled veterans.

Well over one-half—or 56 percent—of the VRA appointments made during the April to September 1982 period were made by the Defense Department; the Army alone hired 2,371 using VRA's. The Veterans' Administration made 2,570 VRA hires—33.6 percent of all those hired agencywide during that period. Five other agencies' proportional representation of VRA hires among total new hires exceeded or equaled the Governmentwide proportion of 3.5 percent; these included the Navy, the Air Force, the Department of Justice, the International Boundary and Water Commission, and the Smithsonian Institution.

The success of the VRA program is also evidenced by the high Government-wide retention rates of veterans who were initially appointed under the VRA authority. OPM data indicate that of the 8,176 VRA hires who left the program in the April to September 1982 period, 7,092—or 86.7 percent—converted to career-conditional employment status in the civil service system.

Mr. President, the continued success and popularity of the program is without question. Indeed, at hearings held before the House Committee on Veterans' Affairs last September 29, there was unanimous support among the witnesses for extension of the program, including OPM Director Donald J. Devine, who noted that he supported enactment of legislation to extend the program through September 30, 1987.

It should be noted also that Director Devine testified in support of additional changes in the VRA authority including raising the maximum grade level, removing the education limit, and modifying the reporting requirements now set forth in section 2014(b). While I continue to study those recommendations carefully, I have not included them in this bill. I want first to get some measure of the impact that such changes would have on the purpose of the VRA program to assist disadvantaged and disabled Vietnam-era veterans and how such changes would relate to carrying out effectively other programs and policies of the Federal Government to employ our Nation's veterans as well as other citizens.

Mr. President, the VRA program has provided employment for tens of thousands of those Vietnam-era veterans who would otherwise, because of a variety of factors, have not been able to obtain Federal employment. The extension of the basic authority would insure that the program continues to meet those needs.

I ask unanimous consent that the test of the measure be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

* * * * *

**Office of the**
**Administrator**
**of Veterans Affairs**

Washington, D.C. 20420

**Veterans**
**Administration**

MAY 7 - 1984

Honorable Alan K. Simpson
Chairman, Committee on
Veterans' Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

I am pleased to answer your request for the views of the Veterans Administration on S. 2268, 98th Congress, 2d Session, a bill "To amend title 38, United States Code, to extend the authority for veterans readjustment appointments."

The Veterans Administration strongly supports extending through September 30, 1987, the Veterans Readjustment Appointments (VRA) authority in 38 U.S.C. § 2014. Under this authority, Federal agencies can noncompetitively appoint qualified disabled veterans and veterans of the Vietnam era to civil service positions. These veterans' appointments can be converted to career or career-conditional appointments after two years of satisfactory employment and training. The VRA authority has been most beneficial to the Veterans Administration in providing necessary staff and has led to successful careers for many disabled and Vietnam-era veterans who, once given the opportunity, have proven to be high-quality employees.

VA is proud, in fact, to be one of the leading users of this authority. Since the program's inception, over one-third of all VRA appointments in the Government have been made by the VA. Our use of Veterans Readjustment Appointments has also helped us meet our affirmative action goals. For example, as of a year ago, almost 50 percent of our VRA appointees were minorities. An extension of the VRA authority would allow the Veterans Administration and other Federal agencies to reach many more Vietnam-era and disabled veterans who need only the opportunity to prove their ability to overcome employment barriers which remain, even years after the conclusion of the Vietnam era.

The continuing unemployment of many Vietnam-era veterans further demonstrates the need for extending VRA authority. In January 1983, for example, the unemployment rate for male

Vietnam-era veterans was 1.3 percent higher than the rate for all male war veterans. (Data for female veterans is not compiled.)

Extending the Veterans Readjustment Appointments authority is essentially a cost-free method of helping veterans complete their readjustment to civilian life. It is expected that the extension of this authority would have no budgetary impact on the Veterans Administration.

In addition to extending VRA authority, the VA favors improving it as provided for by the OPM bill submitted to Congress on February 24, 1984. In particular, we favor (1) eliminating the current prohibition against granting appointments to non-disabled veterans under this authority if they have had over 14 years of education, (2) increasing the maximum grade level for appointments from GS-7 to GS-9, and (3) providing limited appeal rights to appointees who are terminated during their first year of employment. These improvements would make the VRA authority fairer and more flexible.

In sum, we strongly support S. 2268 because it benefits members of our society who have made special contributions to our national welfare.

The Office of Management and Budget has advised that there is no objection to the submission of this report to the Congress and that enactment of S. 2268 with the amendments noted above would be consistent with the Administration's objectives.

Sincerely,

Everett Alvarez / Deputy Administrator • For

HARRY N. WALTERS
Administrator

[77]
COMMITTEE ON VETERANS' AFFAIRS, U.S. SENATE

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

Honorable Alan K. Simpson
Chairman
Committee on Veterans' Affairs
United States Senate
Washington, D.C. 20510

MAY 11 1984

Dear Mr. Chairman:

This is in reply to the Committee's request for the views of this Office on S. 2268, "To amend title 38, United States Code, to extend the authority for veterans readjustment appointments."

The purpose of the bill is to extend through September 30, 1987, the Veterans Readjustment Appointment (VRA) program which expires September 30, 1984.

In its report, the Veterans Administration states its support for extension of the VRA program and also recommends additional improvements in the program which were recommended in the Office of Personnel Management draft VRA bill extension submitted to the Congress on February 24, 1984. These would (1) eliminate the limit on educational attainment of nondisabled veterans; (2) increase the maximum entry level from GS-7 to GS-9; and (3) provide limited appeal rights for veterans terminated during their first year of employment.

We recommend enactment of S. 2268, amended to incorporate the improvements by the Office of Personnel Management. Enactment of S. 2268 with such amendments would be consistent with the Administration's objectives.

Sincerely,

James M. Frey

James M. Frey
Assistant Director for
Legislative Reference

98TH CONGRESS
2D SESSION

# S. 2451

To amend title 38, United States Code, to increase the maximum amounts of the Veterans' Administration's specially adapted housing assistance grants provided to certain severely, service-connected disabled veterans and the maximum amounts of Veterans' Administration home loan guaranties.

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IN THE SENATE OF THE UNITED STATES

MARCH 20 (legislative day, MARCH 19), 1984

Mr. CRANSTON (for himself, Mr. RANDOLPH, Mr. MATSUNAGA, and Mr. DECONCINI) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

---

# A BILL

To amend title 38, United States Code, to increase the maximum amounts of the Veterans' Administration's specially adapted housing assistance grants provided to certain severely, service-connected disabled veterans and the maximum amounts of Veterans' Administration home loan guaranties.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 802 of title 38, United States Code, is amended—

(1) in subsection (a), by striking out "$32,500" and inserting in lieu thereof "$38,000"; and

(2) in subsection (b), by striking out "$5,000" and inserting in lieu thereof "$6,000".

SEC. 2. (a) Section 1810(c) of such title is amended by striking out "$27,500" and inserting in lieu thereof "$35,000".

(b) Section 1811(d)(2) of such title is amended—

(1) in subparagraph (A), by striking out "$27,500" both places it appears and inserting in lieu thereof "$35,000"; and

(2) in subparagraph (B), by striking out "$20,000" both places it appears and inserting in lieu thereof "$22,000".

(c) Section 1819(c) of such title is amended by striking out "$20,000" each place it appears and inserting in lieu thereof "$22,000".

SEC. 3. The amendments made by this Act shall take effect on October 1, 1984.

[83]

COMMITTEE ON VETERANS' AFFAIRS, U.S. SENATE

Office of the
Administrator
of Veterans Affairs

Washington DC 20420

Veterans
Administration

JUNE 18 1984

Honorable Alan K. Simpson
Chairman, Committee on
Veterans' Affairs
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

This will respond to your request for the views of the Veterans Administration on S. 2451, 98th Congress, a bill "To amend title 38, United States Code, to increase the maximum amounts of the Veterans' Administration's specially adapted housing assistance grants provided to certain severely, service-connected disabled veterans and the maximum amounts of Veterans' Administration home loan guaranties."

This bill would increase the dollar limitations on various VA housing programs.

The first section of S. 2451 would increase the current Specially Adapted Housing Grant from $32,500 to $38,000 and increase the maximum housing grant for veterans who are blind or have lost or lost the use of both hands from $5,000 to $6,000. The current law provides that the traditional Specially Adapted Housing Grant authorized under 38 U.S.C. § 802(a) cannot exceed 50 percent of the cost to the veteran of the housing unit and land on which it is located up to the maximum. In 1983 the average grant provided a veteran with 37 percent of the funds necessary to obtain a specially adapted house. Therefore, in view of the amount of the existing grant and the stabilization of the economy, an increase in the Specially Adapted Housing Grant would not be warranted at this time.

The bill would also increase the grant authorized under 38 U.S.C. § 802(b) which currently has a maximum of $5,000. The special $5,000 grant program for veterans who are blind or have lost or lost the use of both hands was enacted on October 1, 1980. Since implementation, there have been

454 grants to blind veterans averaging $4,692 each and 23 grants to veterans who have lost or lost the use of both hands averaging $4,306 each. There have been, however, a few instances where the $5,000 grant was not adequate to meet the needs of these severely disabled veterans. As the instances are few and the increase to $6,000 would only involve a slight increase, the cost of such an increase in grant payments would be minimal. Accordingly, we favor the increase in the maximum for this special grant from $5,000 to $6,000.

Section 2(a) of the bill would increase the maximum guaranty under 38 U.S.C. § 1810 for conventionally built homes from $27,500 to $35,000. During Fiscal Year 1983, the average loan amount was $62,127. The guaranty for these loans under the current maximum of $27,500 would be 44.26 percent.

The VA guaranty is intended to provide the lender the protection provided by a down payment on a conventional home loan. The guaranty protection of over 44 percent on the average VA home loan in the recently ended fiscal year is considerably greater than the 20 to 25 percent down payment protection normally obtained on conventional loans. Experience shows that the secondary market normally demands 25 percent protection on Government backed home loans. Thus, the current $27,500 guaranty would support a loan of $110,000, far in excess of the average VA home loan amount.

Section 2(b) of the bill makes certain technical amendments made necessary by the guaranty increase.

Section 2(c) of S. 2451 would increase the maximum guaranty under 38 U.S.C. § 1819 on manufactured homes from $20,000 to $22,000. With respect to manufactured homes, the VA guarantees 50 percent of the loan amount, up to a maximum guaranty of $20,000. Therefore, a loan would need to exceed $40,000 before the lender would receive less than the full 50 percent guaranty protection contemplated by the statute. In Fiscal Year 1983 the average VA manufactured home loan was $21,020.

Based on these facts, we oppose increasing the VA loan guaranty amounts.

Honorable Alan K. Simpson

The following reflects costs associated with the first section of S. 2451, related to both specially adapted housing programs:

| FY | Grants Affected | Cost ($000) |
|---|---|---|
| 1985 | 500 | $ 2,300 |
| 1986 | 490 | 2,245 |
| 1987 | 480 | 2,190 |
| 1988 | 470 | 2,135 |
| 1989 | 460 | 2,080 |
|  | 2,400 | $10,950 |

The following reflects 5-year cost estimates of increasing the home loan guaranty from $27,500 to $35,000:

| FY | Claims Affected | Cost ($000) (A) | (B) |
|---|---|---|---|
| 1985 | 566 | $ 133 | $ 3,096 |
| 1986 | 3,704 | 903 | 21,343 |
| 1987 | 6,241 | 1,599 | 37,789 |
| 1988 | 7,530 | 1,991 | 47,785 |
| 1989 | 8,361 | 2,279 | 55,032 |
| Total | 26,402 | $6,905 | $165,045 |

| | |
|---|---|
| Column (A): | assumes continuation of present practice of acquiring properties at foreclosure. |
| Column (B): | assumes the policy in the President's 1985 Budget of paying mortgagors' claims rather than acquiring properties at foreclosure. |

Costs resulting from the increase in the manufactured home loan guaranty from $20,000 to $22,000 would total less than $100,000 per fiscal year.

Accordingly, the Veterans Administration opposes enactment of S. 2451, with the exception of paragraph (2) of the first section of the bill that increases the grant under 38 U.S.C. § 802(b) which we favor.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this report to the Congress from the standpoint of the Administration's program.

Sincerely,

Everett Alvarez / Deputy Administrator - For

HARRY N. WALTERS
Administrator

[84]

COMMITTEE ON VETERANS' AFFAIRS, U.S. SENATE

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

JUL 16 1984

Honorable Alan K. Simpson
Chairman
Committee on Veterans' Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This is in response to your request for the views of this Office on S. 2451, a bill "To amend title 38, United States Code, to increase the maximum amounts of the Veterans' Administration's specially adapted housing assistance grants provided to certain severely, service-connected disabled veterans and the maximum amounts of Veterans' Administration home loan guaranties."

In its June 18, 1984, report to your Committee on S. 2451, the Veterans' Administration (VA) explains its reasons for opposing the bill. The VA does favor the provision in section 1(2) of the bill to increase the maximum special housing grant from $5,000 to $6,000 to assist veterans who are blind or have lost the use of both hands to have adjustments made to their homes.

The Office of Management and Budget concurs in the views expressed by the VA in its report and, accordingly, opposes enactment of S. 2451, except for section 1(2).

Sincerely,

James M. Frey

James M. Frey
Assistant Director for
Legislative Reference

98TH CONGRESS
2D SESSION

# S. 2736

To amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans and to increase the rates of dependency and indemnity compensation for surviving spouses and children of veterans; and for other purposes.

---

## IN THE SENATE OF THE UNITED STATES

JUNE 7 (legislative day, JUNE 6), 1984

Mr. BAKER (for Mr. SIMPSON) (for himself and Mr. CRANSTON) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

---

# A BILL

To amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans and to increase the rates of dependency and indemnity compensation for surviving spouses and children of veterans; and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. (a) This Act may be cited as the "Veterans' and Survivors' Compensation Rate Increase Act of 1984".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

## TITLE I—DISABILITY COMPENSATION RATE INCREASES

### DISABILITY COMPENSATION

SEC. 101. (a) Section 314 is amended—

(1) by striking out "$64" in subsection (a) and inserting in lieu thereof "$67";

(2) by striking out "$118" in subsection (b) and inserting in lieu thereof "$124";

(3) by striking out "$179" in subsection (c) and inserting in lieu thereof "$187";

(4) by striking out "$258" in subsection (d) and inserting in lieu thereof "$270";

(5) by striking out "$364" in subsection (e) and inserting in lieu thereof "$381";

(6) by striking out "$459" in subsection (f) and inserting in lieu thereof "$481";

(7) by striking out "$579" in subsection (g) and inserting in lieu thereof "$606";

(8) by striking out "$671" in subsection (h) and inserting in lieu thereof "$703";

(9) by striking out "$755" in subsection (i) and inserting in lieu thereof "$790";

(10) by striking out "$1,255" in subsection (j) and inserting in lieu thereof "$1,314";

(11) by striking out "$1,559" and "$2,185" in subsection (k) and inserting in lieu thereof "$1,632" and "$2,288", respectively;

(12) by striking out "$1,559" in subsection (l) and inserting in lieu thereof "$1,632";

(13) by striking out "$1,719" in subsection (m) and inserting in lieu thereof "$1,800";

(14) by striking out "$1,954" in subsection (n) and inserting in lieu thereof "$2,046";

(15) by striking out "$2,185" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$2,288";

(16) by striking out "$938" and "$1,397" in subsection (r) and inserting in lieu thereof "$982" and "$1,463", respectively;

(17) by striking out "$1,404" in subsection (s) and inserting in lieu thereof "$1,470"; and

(18) by striking out "$271" in subsection (t) and inserting in lieu thereof "$284".

(b) The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-

857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

### ADDITIONAL COMPENSATION FOR DEPENDENTS

Sec. 102. Section 315(l) is amended—

(1) by striking out "$77" in clause (A) and inserting in lieu thereof "$81";

(2) by striking out "$128" and "$41" in clause (B) and inserting in lieu thereof "$134" and "$43", respectively;

(3) by striking out "$52" and "$41" in clause (C) and inserting in lieu thereof "$54" and "$43", respectively;

(4) by striking out "$62" in clause (D) and inserting in lieu thereof "$65";

(5) by striking out "$139" in clause (E) and inserting in lieu thereof "$146"; and

(6) by striking out "$116" in clause (F) and inserting in lieu thereof "$121".

### CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS

Sec. 103. Section 362 is amended by striking out "$338" and inserting in lieu thereof "$354".

## TITLE II—DEPENDENCY AND INDEMNITY COMPENSATION RATE INCREASES

Sec. 201. (a) Subsection (a) of section 411 is amended to read as follows:

"(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

| "Pay grade | Monthly rate | "Pay grade | Monthly rate |
|---|---|---|---|
| E-1 | $483 | W-4 | $692 |
| E-2 | 497 | 0-1 | 610 |
| E-3 | 509 | 0-2 | 630 |
| E-4 | 542 | 0-3 | 674 |
| E-5 | 557 | 0-4 | 713 |
| E-6 | 570 | 0-5 | 786 |
| E-7 | 598 | 0-6 | 886 |
| E-8 | 630 | 0-7 | 958 |
| E-9 | [1] 659 | 0-8 | 1,050 |
| W-1 | 610 | 0-9 | 1,128 |
| W-2 | 636 | 0-10 | [2] 1,234 |
| W-3 | 653 | | |

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $710.

"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,324.".

(b) Subsection (b) of such section is amended by striking out "$53" and inserting in lieu thereof "$55".

(c) Subsection (c) of such section is amended by striking out "$139" and inserting in lieu thereof "$146".

(d) Subsection (d) of such section is amended by striking out "$68" and inserting in lieu thereof "$71".

### DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 202. Section 413 is amended—

(1) by striking out "$233" in clause (1) and inserting in lieu thereof "$244";

(2) by striking out "$334" in clause (2) and inserting in lieu thereof "$350";

(3) by striking out "$432" in clause (3) and inserting in lieu thereof "$452"; and

(4) by striking out "$432" and "$87" in clause (4) and inserting in lieu thereof "$452" and "$91", respectively.

### SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 203. Section 414 is amended—

(1) by striking out "$139" in subsection (a) and inserting in lieu thereof "$146";

(2) by striking out "$233" in subsection (b) and inserting in lieu thereof "$244"; and

(3) by striking out "$118" in subsection (c) and inserting in lieu thereof "$124".

## TITLE III—ALTERNATIVE RATE INCREASES; EFFECTIVE DATE

SEC. 301. Except as provided in section 302, titles I and II shall take effect on December 1, 1984.

SEC. 302. (a) If the percentage of the increase in benefit amounts under title II of the Social Security Act that will take effect on December 1, 1984, as a result of a determination under section 215(i) of such Act is not 4.7 percent, titles

I and II of this Act shall not take effect and the Administrator shall, effective December 1, 1984, increase by the same percentage as the percentage by which such benefit amounts will thus be increased each dollar amount that would have been increased by the amendments that would have been made by such titles.

(b) In the computation of increases pursuant to subsection (a), amounts of $.50 or more shall be rounded to the next higher dollar amount and amounts of less than $.50 shall be rounded to the next lower dollar amount.

(c) The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85–857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

(d) If, under subsection (a), the Administrator is required to increase the dollar amounts described in subsection (a), the Administrator shall publish the increased amounts (together with the rates adjusted by the Administrator under subsection (c)) in the Federal Register at the same time as the material required by section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) is published by reason of a determination under section 215(i) of such Act.

98TH CONGRESS
2D SESSION

# S. 2737

To amend title 38, United States Code, to increase the rates of subsistence and educational assistance allowances for veterans pursuing vocational rehabilitation programs under chapter 31 and for veterans and eligible persons pursuing programs of education or training under chapters 34, 35, or 36; and for other purposes.

---

IN THE SENATE OF THE UNITED STATES

JUNE 7 (legislative day, JUNE 6), 1984

Mr. BAKER (for Mr. SIMPSON) (for himself and Mr. CRANSTON) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

---

# A BILL

To amend title 38, United States Code, to increase the rates of subsistence and educational assistance allowances for veterans pursuing vocational rehabilitation programs under chapter 31 and for veterans and eligible persons pursuing programs of education or training under chapters 34, 35, or 36; and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

Sec. 2. The table contained in section 1508(b) is amended to read as follows:

| "Column I | Column II | Column III | Column IV | Column V |
|---|---|---|---|---|
| Type of program | No dependents | One dependent | Two dependents | More than two dependents |
| | | | | The amount in column IV, plus the following for each dependent in excess of two: |
| Institutional training: | | | | |
| Full-time | $310 | $384 | $452 | $33 |
| Three-quarter time. | 233 | 288 | 339 | 25 |
| Half-time | 155 | 193 | 227 | 17 |
| Farm cooperative, apprentice, or other on-job training: | | | | |
| Full-time | 271 | 327 | 377 | 24 |
| Extended evaluation: | | | | |
| Full-time | 310 | 384 | 452 | 33 |
| Independent living training: | | | | |
| Full-time | 310 | 384 | 452 | 33 |
| Three-quarter time. | 233 | 288 | 339 | 25 |
| Half-time | 155 | 193 | 227 | 17". |

Sec. 3. Chapter 34 is amended—

(1) by amending the table contained in paragraph (1) of section 1682(a) to read as follows:

| "Column I | Column II | Column III | Column IV | Column V |
|---|---|---|---|---|
| Type of program | No dependents | One dependent | Two dependents | More than two dependents |
| | | | | The amount in column IV, plus the following for each dependent in excess of two: |
| Institutional training: | | | | |
| Full-time | $376 | $448 | $510 | $32 |
| Three-quarter time. | 283 | 336 | 383 | 24 |
| Half-time | 188 | 224 | 255 | 17 |
| Cooperative | 304 | 355 | 404 | 23"; |

(2) by striking out "$342" in section 1682(b) and inserting in lieu thereof "$376";

(3) by amending the table contained in section 1682(c) to read as follows:

| "Column I | Column II | Column III | Column IV | Column V |
|---|---|---|---|---|
| Basis | No dependents | One dependent | Two dependents | More than two dependents |
| | | | | The amount in column IV, plus the following for each dependent in excess of two: |
| Full-time | $304 | $355 | $404 | $23 |
| Three-quarter time | 228 | 266 | 303 | 18 |
| Half-time | 152 | 178 | 202 | 12"; and |

(4) by striking out "$76" and "$911" in section 1692(b) and inserting in lieu thereof "$84" and "$1,008", respectively.

Sec. 4. Chapter 35 is amended—

(1) by striking out "$276" in section 1732(b) and inserting in lieu thereof "$304"; and

(2) by striking out "$342", "$108", "$108", and "$11.44" in section 1742(a) and inserting in lieu thereof "$376". "$119", "$119", and "$12.58", respectively.

Sec. 5. Chapter 36 is amended—

(1) by striking out "$7" and "$11" in the second sentence of section 1784(c) and inserting in lieu thereof "$9" and "$13", respectively;

(2) by striking out "$342" in section 1786(a)(2) and inserting in lieu thereof "$376";

(3) by amending the table in section 1787(b)(1) to read as follows:

| "Column I | Column II | Column III | Column IV | Column V |
|---|---|---|---|---|
| Periods of training | No dependents | One dependent | Two dependents | More than two dependents |
| | | | | The amount in column IV, plus the following for each dependent in excess of two: |
| First 6 months | $274 | $307 | $336 | $14 |
| Second 6 months | 205 | 239 | 267 | 14 |
| Third 6 months | 136 | 171 | 198 | 14 |
| Fourth and any succeeding 6-month periods. | 68 | 101 | 131 | 14"; and |

(4) by striking out "$342" in section 1798(b)(3) and inserting in lieu thereof "$376".

Sec. 6. The provisions of this Act shall become effective on October 1, 1984.

98th CONGRESS
2d Session

# S. 2759

To amend chapter 11 of title 38, United States Code, to provide for periods of trial work (comparable to periods of trial work for Social Security Act disability recipients) for veterans assigned service-connected total disability ratings by reason of unemployability.

---

IN THE SENATE OF THE UNITED STATES

June 13 (legislative day, June 11), 1984

Mr. Cranston introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

---

# A BILL

To amend chapter 11 of title 38, United States Code, to provide for periods of trial work (comparable to periods of trial work for Social Security Act disability recipients) for veterans assigned service-connected total disability ratings by reason of unemployability.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) subchapter VI of chapter 11 of title 38, United States Code, is amended by adding at the end the following new section:

### "§363. Trial period of work for certain veterans with total disability ratings

"(a) In the case of a veteran with a service-connected disability, or service-connected disabilities, not rated as total, but with a total disability rating by reason of a determination of inability to secure or follow a substantially gainful occupation as a result of such disability or disabilities, for the purposes of determining whether such veteran has regained the ability to secure or follow such occupation, any activity performed for remuneration or gain (or determined by the Administrator to be activity of a type normally performed for remuneration or gain) by such veteran during a period of trial work shall be deemed not to have been performed by such veteran during such period.

"(b) For the purposes of subsection (a) of this section, the term 'period of trial work' means the period beginning with the first full month following the month in which the total disability rating was assigned to the veteran and ending with the close of the ninth month, after the beginning of such first full month, in which the veteran performed activity described in such subsection.".

(b) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 362 the following new item:

"363. Trial period of work for certain veterans with total disability ratings.".

[From the Congressional Record, Vol. 130, No. 80, pp. S7169-S7170--Senate, June 13, 1984]

### TRIAL WORK PERIOD FOR VETERANS WITH TOTAL DISABILITY RATINGS BASED ON UNEMPLOYABILITY

**Mr. CRANSTON.** Mr. President, I have today introduced a bill (S. 2759) to establish within the Veteran's Administration service-connected disability compensation program the same type of trial-work period concept that exists under the Social Security Act for disability insurance beneficiaries and for disabled recipients of supplemental security income.

Under the VA's Compensation Program, the service-connected disabilities of veterans are rated, in multiples of 10 percentage points, from zero percent through 100 percent disabling. The schedule of these ratings is designed to reflect the average impairments of earning capacity resulting from particular disabilities. In general, the ratings are assigned, according to the VA's schedule of ratings, on the basis of the nature and extent of the disability or combination of disabilities, without regard to whether the particular veteran is or is not actually engaged in a gainful occupation or the level of his or her earnings. However, there is an exception. Under longstanding VA regulations—section 4.16 of title 38 of the Code of Federal Regulations—provision is made for assigning to a veteran with a disability or disabilities not ratable as totally disabling a 100-percent disability rating if an individualized determination is made that he or she is unable to secure or follow a substantially gainful occupation as a result of service-connected disability. A substantial element of judgment is involved in making these determinations, and consideration is given to the nature of the veteran's service-connected disability, employment history, educational and vocational attainment, and other pertinent factors. At present, there are approximately 85,000 veterans with total disability ratings based on individual unemployability, known as I.U.'s.

The situation of an I.U. veteran is subject to periodic review. Thus, for example, if either the veteran's medical condition were to improve or the veteran were to return to work, the total disability rating could be reduced to the rating that the veteran's disability itself warrants.

In such cases, the prospect of reduced compensation can constitute a strong disincentive to the individual's seeking employment. I believe that it would be wise to reduce that disincentive and thus make it more likely that larger numbers of I.U. veterans would find it advantageous to try to return to work.

Such a program exists for reducing a similar work disincentive under the Social Security Disability Insurance (SSDI) Program. Under section 222(c) of the Social Security Act, work performed by an individual during a so-called period of trial work is disregarded for purposes of any determination as to whether he or she ceased to be disabled during that period. The period of trial work gives the individual 9 months, not necessarily consecutive months, during which he or she may engage in work on a trial basis without a need to be concerned that the attempt to work might mean the loss of benefits even though it turns out that his or her disability prevents employment on a long-term basis.

Specifically, the period of trial work begins with the month in which the disabled individual becomes eligible for SSDI benefits and terminates at the end of the ninth month thereafter in which the individual has worked. The term used in this Social Security Act provision for work is "renders services" and "services" is defined as "activity which is performed for remuneration or gain or is determined by the Secretary (of Health and Human Services) to be in a type normally performed for remuneration or gain". The implementing regulations (42 C.F.R. section 404.1536(d)) make the following clarification:

> Work performed without remuneration merely as a therapeutic measure or purely as a matter of training, or work usually performed in daily routine around the home or in self-care, is not considered "services."

I would intend the VA to apply the same concept in implementing the "trial-work period" proposed in the bill.

As I have noted, the 9 months of trial work can occur at any time after the individual becomes entitled to SSDI and can be interspered over any period of time thereafter, no matter how long. The key is that, after having become entitled to benefits, once the individual has worked in any 9 months, the period of trial work is over.

A nearly identical provision, section 1614(a)(4) of the Social Security Act, incorporates the concept of a trial-work period in the supplemental security income program.

My measure would provide for a period of trial work, derived from the SSDI provision. I believe that this provision would be beneficial both to service-connected disabled I.U. veterans who desire to return to work and to the compensation program. If enacted, the period of trial work should provide an additional useful tool to the VA outreach staff and vocational rehabilitation counselors seeking to assist these diabled veterans in preparing to return to and remain in the work force. The VA has a comprehensive program of vocational rehabilitation services for service-connected disabled veterans under chapter 31 of title 38, United States Code, which, based on legislation I authored in the Senate, the Congress revised and updated in 1980, in Public Law 96-466. I would urge the VA to ensure that the trial-work period concept is lined to its efforts to rehabilitate I.U. veterans and to assist those who participate in the chapter 31 program to find and keep suitable employment.

Mr. President, I urge my colleagues to give this bill careful consideration and support.

This measure is on the agenda of a Veterans' Affairs Committee hearing on VA compensation and other issues scheduled for next Wednesday, June 20. I look forward to getting the reactions of the hearing witnesses to this bill and to working together with other members of the Veterans' Affairs Committee and others interested in the development of this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record as follows:

* * * * *

98TH CONGRESS
2D SESSION

# S. 2760

To amend the Emergency Veterans' Job Training Act of 1983 to extend the period of time during which an eligible veteran may apply for a program of job training and to postpone the date by which such a program must begin, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JUNE 13 (legislative day, JUNE 11), 1984

Mr. CRANSTON (for himself and Mr. DECONCINI) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

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# A BILL

To amend the Emergency Veterans' Job Training Act of 1983 to extend the period of time during which an eligible veteran may apply for a program of job training and to postpone the date by which such a program must begin, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Emergency Veterans' Job Training Extension Act of 1984".

SEC. 2. (a)(1) Section 5(b)(3)(A) of the Emergency Veterans' Job Training Act of 1983 (Public Law 98-77; 97

Stat. 443) is amended by striking out "60" and inserting in lieu thereof "90".

(2) The amendment made by paragraph (1) of this subsection shall apply only to certificates of eligibility issued after the end of the thirty-day period beginning on the date of the enactment of this Act.

(b) Section 16 of such Act is amended by striking out "1986" and inserting in lieu thereof "1987".

(c) Section 17 of such Act is amended to read as follows:

"SEC. 17. Assistance may not be paid to an employer under this Act—

"(1) on behalf of a veteran who applies for a program of job training under this Act after May 31, 1985; or

"(2) for any such program which begins after September 1, 1985.".

[From the Congressional Record, Vol. 130, No. 80, pp. S7170-S7171--Senate, June 13, 1984]

### EMERGENCY VETERANS' JOB TRAINING ACT EXTENSION OF 1984

Mr. CRANSTON. Mr. President, I am introducing today S. 2760, the proposed Emergency Veterans' Job Training Act Extension of 1984. This measure, which is cosponsored by Senator DECONCINI, would amend the Emergency Veterans' Job Training Act of 1983, Public Law 98-77, to extend the period of time during which an eligible veteran may apply for a program of job training and to postpone the date by which such veteran's training program must begin. It would also extend, from 60 days to 90 days, the life of a certificate of eligibility provided to a veteran.

### BACKGROUND

Public Law 98-77 was, after a long and arduous struggle, signed into law by President Reagan—who initially opposed the legislation—on August 15, 1983. This law was derived from provisions of a measure I introduced, S. 992, the proposed Veterans' Emergency Retraining Act, S. 1033, a measure introduced by the distinguished chairman of the committee [Mr. SIMPSON], and H.R. 2355, a measure introduced by the distinguished chairman of the Subcommittee on Education and Training of the House Veterans' Affairs Committee [Mr. LEATH]. Under this law, programs for training and retraining of long-term unemployed Vietnam-era and Korean-conflict veterans are fostered through the use of employer-reimbursement incentives.

As enacted, Public Law 98-77 provided that the program would become effective on October 1, 1983, if funding for it had been appropriated and made available to the VA by that date. However, in recognition of the possibility that funds would not become available by that date, the law provided for a tolling period. Under this mechanism, in section 17 of the measure as signed into law, the program would begin on the date on which funds were made available to the VA for the conduct of the program.

Since the funds for the program—contained in the Further Continuing Appropriations Act for fiscal year 1984, Public Law 98-151, which was signed on November 14, 1983—were not made available to the VA until November 29, 1983, the program became effective on that date.

An additional $75 million for the program was made available in the Supplemental Appropriation Act for fiscal year 1984, Public Law 98-181, which was signed on November 30, 1983. This represented full funding for fiscal year 1984.

However, Mr. President, despite exceptionally high interest in the program—particularly among veterans—the program got off to a very slow start. As of May 28, 177,163 veterans had applied for the program and 137,801 had been certified as eligible. Also as of that date, 16,650 employers had been approved to offer training for 38,060 jobs. This means that jobs are available or could be made available for over 27 percent of those eligible for the program.

Despite this indication of some degree of success for the program, the number of veterans actually placed in training slots has been most discouraging. Only 6,547—just 4.8 percent of those determined eligible—veterans are actually in training under the new program, and only 17.2 percent of the training slots have been filled. As a result, only $28.8 million of the $150 million made available for the program have been obligated.

Mr. President, I am not pleased with the level of success that the program has achieved thus far. However, I continue to believe very strongly that the program can be of invaluable assistance in meeting the needs of long-termed unemployed veterans of the Vietnam era and the Korean conflict. I am concerned that, at the root of the failure of the program to be as successful as I and others believe it can be is the likelihood that the Veterans' Administration and the Department of Labor—the agencies jointly responsible for implementation of the program—have not been as aggressive in carrying out their responsibilities as they should be. In addition, the fact that the date on which the program became effective fell, rather unfortunately, in the holiday season may have prevented many employers from participating in the program at the outset. Finally, Mr. President, the program is a brand new one, and, as a result, the expertise and experience that could enhance its implementation simply have not existed prior to now.

### PROVISIONS OF S. 2760

Mr. President, as I noted, I believe the program can be of invaluable assistance if given a full chance to achieve its potential. Thus, we are proposing in this bill to extend the period during which a veteran can make application for the program and the period before which a veteran must begin training by 6 months. Thus, instead of the program closing to new applications on November 29, 1984, and requiring veterans to enter training prior to March 1, 1985, the program would close on May 31, 1986, and training would be required to be initiated prior to September 1, 1986

In addition, the proposal I am making would extend the period of time during which funds already appropriated for the measure will be available. Under current law, the funds appropriated for the program are to remain available until September 30, 1986. Our bill would make the funds available until September 30, 1987, so that payments may continue to be paid to veterans through the 6-month extension period. I want to stress that our measure would not authorize any additional appropriations but would rather simply extend the period of time that funds appropriated would remain available.

Finally, Mr. President, our proposal would extend the life of a certificate of eligibility provided to a veteran who has been determined to be eligible for the program. Under current law, these certificates are good for 60 days, and during that period the veteran can present them to an approved employer for purposes of entering a job training program. This 60-day period appears to be too short a time and, as a result, to be producing unnecessary and time-delaying paperwork and redtape to accomplish the process of veterans' reapplications. Extending this period to 90 days, as our bill would do, should relieve some of this problem and give veterans a longer period of time in which to seek a training position.

I want to make mention of the fact that this measure is similar to legislation recently reported from the House Veterans' Affairs Committee, title III of H.R. 5398, the proposed Veterans' Education and Employment Amendments of 1984. I look forward to working with my colleagues in both Houses as we pursue this matter.

Mr. President, I ask unanimous consent that the text of this measure be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

* * * * *

Chairman SIMPSON. I understand that Dorothy Starbuck is ill and cannot be with us today, so we will begin our panel with John Hagan, Jr., the Deputy Benefits Director, and the whole panel, Herbert Mars, Deputy Director of Compensation and Pension; Mary Leyland, Deputy Director, Education Service of the DVB; and Robert O'Toole, Director of the Loan Guaranty Service.

If you would please come forward we would be pleased to have your testimony.

## TESTIMONY OF JOHN W. HAGAN, JR., DEPUTY BENEFITS DIRECTOR, VETERANS' ADMINISTRATION, WASHINGTON, DC, ACCOMPANIED BY HERBERT B. MARS, DEPUTY DIRECTOR OF COMPENSATION AND PENSION SERVICE; MARY F. LEYLAND, DEPUTY DIRECTOR, EDUCATION SERVICE, DEPARTMENT OF VETERANS BENEFITS; ROBERT M. O'TOOLE, DIRECTOR, LOAN GUARANTY SERVICE; JOHN H. THOMPSON, DEPUTY ASSISTANT GENERAL COUNSEL; AND ROBERT E. COY, DEPUTY GENERAL COUNSEL

Mr. HAGAN. Good morning.

Chairman SIMPSON. Mr. Hagan, how are you, sir?

Mr. HAGAN. Fine, thank you, sir.

Good morning, Mr. Chairman. I am very pleased to be here this morning to discuss the administration's views on the compensation cost-of-living increase and other bills on the agenda.

Mr. Chairman, the Veterans' Administration strongly supports a cost-of-living increase in disability and dependency and indemnity compensation rates effective April 1, 1985. This date would be 1 year after the most recent increase in these benefits.

Our proposal is for an increase using the same percentage as will be applied to Social Security and VA pension rates effective December 1, 1984.

As presently proposed, the effective date for these increases would be December 1, 1984. As the most recent increase became effective April 1, 1984, this would have the effect of giving compensation and DIC recipients a dual increase during 1984—a 3.5-percent increase in April and a further adjustment in December.

We explained last year our belief that future compensation COLA's should be effective in April. Our experience last year has taught us that, in these times of escalating Federal deficits, veterans are prepared to share the burdens of cost-saving measures, provided they are fairly distributed.

Mr. Chairman, the fiscal year 1985 cost of a 4.1-percent increase effective April 1, 1985, would be $197.4 million. Making this increase effective on December 1, 1984, would cost an additional $131.6 million. The fiscal year 1985 cost of Senate bill 2736 would be $396 million, if the 4.7-percent increase is borne out.

Mr. Chairman, on April 24 we submitted a draft compensation COLA measure to Congress. You have asked us to comment on two provisions contained therein.

First, we would propose to assist those institutionalized veterans subject to the $1,500 estate limitation. The purpose of this is to prevent the accumulation of moneys not needed by the veteran and likely to descend, upon the veteran's death, to remote heirs or to escheat.

We are finding that in a number of instances when these benefits are terminated, veterans' home mortgage payments are not being paid. And we would ask you to consider this as an exception to the rule and provide for these veterans.

Second, we propose to discontinue schoolchild benefits effective the date of last attendance. This would be the same as the date that we terminate children's benefits at age 18.

We also are asking for an extension of the authority to operate a regional office in the Philippines to 1989. This current authority is due to expire in 1985.

Mr. Chairman, the next measure on the agenda is Senate bill 2759, which would establish a trial work period for service-disabled veterans rated as totally disabled by reason of individual unemployability. I will make some preliminary observations, and we will provide the committee with a full report of our views on the measure at a later date.

Under our regulations, a veteran whose service-connected disability is rated from 60 to 90 percent is granted a total rating if the disability, considered together with the veteran's education and work history, renders the veteran unemployable.

S. 2759 is intended to remove a supposed disincentive to an individually unemployable veteran's rehabilitation and reemployment by providing that a veteran's gainful employment for up to 9 months—which need not be consecutive—shall be disregarded in determining whether the individual unemployability rating should be retained. This concept of a trial work period is borrowed from the Social Security Act, specifically section 222(c).

We cannot draw a parallel with Social Security disability insurance. Regained employability under SSDI results in termination of benefits, and the trial work period, which can last for an additional 15 months after the 9 months, is intended to prevent unjust terminations. Our veterans who regain employability do not have benefits terminated; they are reduced to rates commensurate with their degree of disability.

Finally, Mr. Chairman, I would note that, based on our review of individual unemployability cases, we believe a large number of our veterans are protected against loss of the rating by section 110 of title 38. Of the remainder, we believe most are veterans in their middle years or beyond for whom the possibility of even trial work is remote.

While we cannot estimate the impact of Senate bill 2759, if enacted with any certainty, one can validly question whether it would have a significant effect in encouraging veterans toward restored employability.

I would like now to turn to Senate bill 2267, a bill that would increase to $4,840 the maximum amount of assistance we may extend to certain severely disabled veterans for the purchase of an automobile. An increase in the statutory maximum is certainly justifiable, and on May 4, before the House Veterans' Affairs Committee, we testified in favor of H.R. 4890, which would have provided for an increase of $5,000. Mr. Chairman, we prefer this increase to the increase that would be provided by Senate bill 2267.

You also asked us to provide our views on Senate bill 2268. This bill would extend the authority to veterans' readjustment appointments, known as VRA. We strongly support such an extension.

Moreover, the Veterans' Administration has been one of the leading users of this authority.

In addition to extending VRA authority, the VA favors improving it as provided for by the OPM bill submitted to Congress on February 24, 1984. In particular, we favor: (1) Eliminating the current prohibition against granting appointments to nondisabled veterans under this authority if they have had over 14 years of education; (2) increasing the maximum grade level for appointments from GS-7 to GS-9; and (3) providing limited appeal rights to appointees who are terminated during their first year of employment.

Senate bill 2451 would increase the VA loan guaranty for real estate loans under section 1810 of title 38 from $27,500 to $35,000; the guaranty on manufactured home loans from $20,000 to $22,000; the specially adapted housing grant from $32,500 to $38,000; and increase the maximum housing grants for veterans who are blind or have lost or lost the use of both hands from $5,000 to $6,000.

Mr. Chairman, we support the increase for the veterans who are blind or have lost the use of both hands. We are opposed to the increase in the other programs, primarily because this guaranty is to take the place of a downpayment.

Currently, we are seeing that in a number of instances this guaranty represents about 44 percent of the loan that is made to the veteran.

With respect to the manufactured home loans, the average guaranty is running about 50 percent. So the manufactured home would have to cost about $40,000 before we reach the 50-percent level.

We favor an increase in the education rates. However, rather than the 10-percent increase proposed in Senate bill 2737, we favor the administration's proposal of a 15-percent rate increase effective January 1, 1985. We believe the 15-percent figure is justified due to increases in the cost of living, as well as increases in education costs.

In particular, I would point out that according to figures from the National Center for Educational Statistics and the Department of Education, total cost of tuition fees, room and board for all public schools rose by 33.3 percent from school year 1980-81 through school year 1983-84. Private school costs increased by 37.9 percent during the same period.

S. 2737 would also raise the reporting fee from $7 and $11, in advance pay cases, to $9 and $13. Here again we favor the administration's proposal to increase these fees to $11 and $15.

In the more than 6 years since these reporting fees have been increased, schools have experienced continuing increases in administrative costs. We believe the higher reporting fees are necessary if schools are to make substantive improvements in their recordkeeping and reporting performance.

S. 2737 also would authorize a 10-percent increase in the rate used to figure the aggregate of amounts any veteran or eligible person could borrow.

Congress has acted in recent years to correct the high default rate experienced in the education loan program by severely restricting its availability. In fact, to go a step further, the administration has now proposed a repeal of the VA's authority to make education loans.

We would, therefore, oppose any such potential increase in defaults and overpayments.

As to the jobs bill proposal, we favor extending the life of a certificate of eligibility to 90 days from the present 60 days. Likewise, we favor extending both the application and training commencement deadline. However, we believe that a 2-month extension of both the application and training commencement deadlines would be reasonable and consistent with current projections.

Mr. Chairman, that concludes my presentation.

Chairman SIMPSON. Thank you very much, Mr. Hagan.

[The prepared statement of John W. Hagan, Jr., Deputy Benefits Director, Veterans' Administration, follows:]

## PREPARED STATEMENT OF JOHN W. HAGAN, JR., DEPUTY BENEFITS DIRECTOR, VETERANS' ADMINISTRATION

Good morning, Mr. Chairman. I am very pleased to be here this morning to discuss the Administration's views on the compensation cost-of-living increase and other bills on the agenda.

Mr. Chairman, the Veterans Administration strongly supports a cost-of-living increase in disability and dependency and indemnity compensation rates effective April 1, 1985. This date would be one year after the most recent increase in these benefits. Our support is consistent with our previous recommendations intended to offset the erosion in the purchasing power of these benefits caused by inflation. Our proposal is for an increase using the same percentage as will be applied to Social Security and VA pension rates effective December 1, 1984.

When the President's budget went forward in January, we anticipated the COLA percentage to be 4.3 percent. Since then, it has been revised downward to an estimated 4.1 percent. The actual percentage will be determined by the Social Security Administration, in accordance with a revised computation method, not later than November 1, 1984.

Mr. Chairman, title I of S. 2736 would increase, by 4.7 percent, the basic compensation rates as well as the higher rates for certain specified disabilities. This title would increase, by the same percentage, the rates of additional compensation for dependents and the annual clothing allowance. Title II would increase DIC rates for surviving spouses and children, also by 4.7 percent. To enable the cost-of-living adjustment to be made at the same percentage as for Social Security-VA pension benefits, title III is intended to provide non-discretionary authority to the VA to adjust the percentage of increase upward or downward, as necessary, with publication of the adjusted rates in the Federal Register. The effective date for these increases would be December 1, 1984. As the most recent increase became effective April 1, 1984, this would have the effect of giving compensation and DIC recipients a dual increase during 1984--a 3.5 percent increase in April and a further increase in December.

Mr. Chairman, from 1976 to 1982, compensation COLA's were made effective on October 1. Beginning in 1979, the COLA percentage was made identical to the Social Security-VA pension percentage effective the previous June 1. The Administration supported this policy. Because of the need for legislative savings last year, the compensation COLA was deferred to April 1 of this year. This was a one-time deferral consistent with the changeover of the Social Security-VA pension COLA effective date to a calendar year basis. We explained last year our belief that future compensation COLA's should be effective on April 1. Our experience last year has taught us that, in these times of escalating federal deficits, veterans are prepared to share the burdens of cost-saving measures, provided they are fairly distributed. We do not believe veterans or survivors would ask to be singled out to receive favored treatment by being granted a dual increase this year. S. 2736 would, in effect, void much of the savings realized from last year's deferral. Hence, we cannot support the effective date in this measure.

As a technical matter we observe that title III is drafted in a deficient manner. As currently drafted, it appears to authorize the VA to increase the dollar amounts in section 314 of title 38. This would not be legally possible. We suggest redrafting this provision to authorize the VA to make payment at the adjusted rates published in the *Federal Register*; the amended rates should be allowed to take effect unless superseded by the adjusted published rates. With respect to *Federal Register* publication, we suggest that it would not be necessary to publish the "protected" compensation rates, as would be required by S. 2736; the object to be attained by publication could be satisfied by an appropriate reference, as is traditionally done by legislation.

Mr. Chairman, the fiscal year 1985 cost of a 4.1 percent increase, effective April 1, 1985, would be $197.4 million. Making this increase effective on December 1, 1984, would cost an additional $131.6 million. The fiscal year 1985 cost of S. 2736 would be $396 million, if the 4.7 percent estimate is borne out.

Mr. Chairman, on April 24 we submitted a draft compensation COLA measure to Congress. You have asked us to comment on two provisions contained therein. First, we would propose to assist those institutionalized veterans subject to the $1,500 estate limitation. This limitation applies to an incompetent veteran institutionalized at Government expense who has no immediate family. If the veteran's estate exceeds $1,500, further payments of compensation or pension are withheld until the estate is reduced to $500. The purpose is to prevent the accumulation of monies not needed by the veteran and likely to descend, upon the veteran's death, to remote heirs or to escheat.

The value of the veteran's home is, of course, part of his or her estate. If the veteran's compensation or pension payments were earmarked for home mortgage and other property-related payments, the veteran may be forced into default once withholding begins. We know of several cases in which veterans affected by the $1,500 limitation were homeless upon discharge from the hospital. Under our proposal, the value of the veteran's home would be excluded in the estate determination, except in cases where there is no reasonable probability of the veteran's eventual discharge from the institution. We recognize that this provision would result in some added compensation costs, but we have no data at present on which to base an estimate.

Second, we propose to discontinue "school child" benefits effective the date of last attendance. Currently, these benefits are discontinued effective the end of the month during which the date of last attendance occurs. Our proposal is intended to bring these discontinuances in line with current provisions discontinuing children's benefits as of the date the child turns 18. This proposal would result in benefits savings of less than $1 million in any fiscal year.

We observe that our draft bill would extend authority to operate a Regional Office in the Philippines to 1989. This authority is currently due to expire in 1985. We urge your consideration of this proposal. Our ability to serve effectively the tens of thousands of Philippine veterans--both Commonwealth Army veterans and U.S. Armed Forces veterans--would be greatly hampered without the expertise and cultural background of our VA employees in the Manila Regional Office. We suggest that allowing this authority to expire would not prove cost-effective over the long term.

Mr. Chairman, the next measure on the agenda is S. 2759, which would establish a "trial work period" for service-disabled veterans rated as totally disabled by reason of individual unemployability (IU). I will make some preliminary observations, and we will provide the Committee with a full report of our views on the measure at a later date.

Under our regulations, a veteran whose service-connected disability is rated from 60 to 90 percent is granted a total rating if the disability, considered together with the veteran's education and work history, renders the veteran unemployable. S. 2759 is intended to remove a supposed disincentive to an IU veteran's rehabilitation and re-employment by providing that an IU veteran's gainful employment for up to 9 months--which need not be consecutive--shall be disregarded in determining whether the IU rating should be continued. This concept of a trial work period is borrowed from the Social Security Act, specifically section 222(c).

We cannot draw a parallel with Social Security Disability Insurance (SSDI). Regained employability under SSDI results in termination of benefits, and the trial work period (which can last for an additional 15 months after the 9 months) is intended to prevent unjust terminations. IU veterans who regain employability do not have benefits terminated; they are reduced to rates commensurate with their degrees of disability. A trial work concept is built into our system.

We strongly encourage all veterans in receipt of compensation to undertake vocational rehabilitation. We do not terminate the IU rating if the veteran engages in marginal employment or "trial work," and we do not immediately reduce benefits when the veteran obtains full employment. Any disincentive to regained employability lies in the nature of the IU veteran's service-connected disabilty rather than the fear of loss of benefits.

Finally, Mr. Chairman, I would note that, based on our review of IU cases, we believe a large number of our IU veterans are protected against loss of the rating by section 110 of title 38. Of the remainder, we believe most are veterans in their middle years or beyond for whom the possibility of even "trial work" is remote. While we cannot estimate the impact of S. 2759, if enacted, with any certainty, one can validly question whether it would have a significant effect in encouraging IU veterans toward restored employability.

Mr. Chairman, I would like to turn now to S. 2267, a bill that would increase to $4,840 the maximum amount of assistance we may extend to certain severely disabled veterans for the purchase of an automobile. To qualify for this benefit, the service-disabled veteran must have suffered the loss or loss of use of one or both hands or feet or blindness to a specified degree.

The current maximum is $4,400. Since this benefit was last increased in 1981, automobile costs have increased considerably. In 1983 the average cost for a new car was almost 18 percent higher than 1981, according to the Department of Commerce.

An increase in the statutory maximum is certainly justifiable, and on May 1, before the House Veterans' Affairs Committee, we testified in favor of H.R. 4890, which would provide for an increase to $5,000. We prefer this increase to the increase that would be provided by S. 2267.

Mr. Chairman, you also asked that we provide you with our views on S. 2268. This bill would extend the authority to make veteran's readjustment appointments, known as "VRA" appointments, in the civil service, for Vietnam-era and disabled veterans. We strongly support such an extension. This authority has been most beneficial. It has led to successful careers for many disabled and Vietnam-era veterans who, when provided the opportunity, have proven to be high-quality employees. Moreover, the Veterans Administration has been one of the leading users of this authority. Over one-third of all VRA appointments since the inception of the authority have been made by VA. Extending this authority would allow the Veterans Administration and other Federal agencies to reach many more Vietnam-era and disabled veterans who need only the opportunity to prove their ability to overcome the employment barriers which remain, years after the conclusion of the Vietnam era. It is noteworthy that VRA appointments are a way of helping to address unemployment among veterans without significant costs to the Government.

In addition to extending VRA authority, the VA favors improving it as provided for by the OPM bill submitted to Congress on February 24, 1984. In particular, we favor (1) eliminating the current prohibition against granting appointments to non-disabled veterans under this authority if they have had over 14 years of education, (2) increasing the maximum grade level for appointments from GS-7 to GS-9, and (3) providing limited appeal rights to appointees who are terminated during their first year of employment. These improvements would make the VRA authority more flexible.

Mr. Chairman, S. 2451 would increase the VA loan guaranty for real estate loans under section 1810 of title 38 from $27,500 to $35,000; the guaranty on manufactured home loans under section 1819 from $20,000 to $22,000; the Specially Adapted Housing Grant from $32,500 to $38,000; and increase the maximum housing grant for veterans who are blind or have lost or lost the use of both hands from $5,000 to $6,000.

The average guaranteed home loan under section 1810 in Fiscal Year 1983 was $62,127. The average guaranty for these loans would be 44.26 percent.

The VA guaranty is intended to provide the lender the protection provided by a down payment on a conventional home loan. The guaranty protection of over 44 percent on the average VA home loan in the last fiscal year is considerably greater than the 20 to 25 percent down payment protection normally obtained on conventional loans. Experience shows, Mr. Chairman, that the secondary market normally demands 25 percent protection on Government backed loans. Thus, the current $27,500 guaranty would support a loan of $110,000, far in excess of the average VA home loan amount. Accordingly, we oppose increasing the VA loan guaranty amount at this time.

With respect to manufactured home loans under section 1819, the VA's current guaranty is limited to 50 percent of the loan amount up to a maximum guaranty of $20,000. Therefore, a loan would need to exceed $40,000 before the lender would receive less than the full 50 percent guaranty protection contemplated by the statute. In Fiscal Year 1983, the average VA manufactured home loan was $21,020. Accordingly, Mr. Chairman, we oppose increasing the VA loan guaranty amount for manufactured housing.

Mr. Chairman, S. 2451 would also increase available VA Specially Adapted Housing Grants. First, it would increase the traditional Specially Adapted Housing Grant from $32,500 to $38,000. The current law provides that the traditional Specially Adapted Housing Grant authorized under 38 U.S.C. § 802(a) cannot exceed 50 percent of the cost to the veteran of the housing unit and land on which it is located up to the maximum. In 1983 the average grant provided a veteran with 37 percent of the funds necessary to obtain a specially adapted house. Therefore, in view of the amount of the existing grant and the stabilization of the economy, an increase in the Specially Adapted Housing Grant would not be warranted at this time.

Mr. Chairman, the special $5,000 grant program for veterans who are blind or have lost or lost the use of both hands was enacted on October 1, 1980. Since implementation there have been 454 grants to blind veterans averaging $4,692 each and 23 grants to veterans who have lost or lost the use of both hands averaging $4,306 each. There have been, however, a few instances where the $5,000 grant was not adequate to meet the needs of these severely disabled veterans. As the instances are few and the increase to $6,000 would only involve a slight increase, the cost of such an increase in grant payments would be minimal. Accordingly, we favor the increase in the maximum for this special grant from $5,000 to $6,000.

Next, I would like to discuss S. 2737, which would authorize a 10 percent increase, effective October 1, 1984, in subsistence and educational assistance allowances payable, respectively, under the VA's vocational rehabilitation and education programs.

We certainly favor an increase in the rates of subsistence and educational assistance allowances. The Administration has proposed enactment of a 15 percent increase, effective January 1, 1985, which we believe is justified in light of the increases in the cost of living, as well as in tuition and other educational expenses, which have occurred since the rates were last adjusted. Accordingly, since an increase in the rates is warranted, the Administration would support any increase up to the level contained in the President's Budget.

Chapter 31 subsistence allowances were last increased by Public Law 96-466, effective October 1, 1980, and totaled approximately 17 percent. The same law provided a 2-step 10 percent boost in GI Bill educational assistance allowances, 5 percent of which became effective on October 1, 1980, and the second 5 percent, on January 1, 1981.

We note that figures published by the National Center for Education Statistics, U.S. Department of Education, disclose that there has been an acceleration in the overall cost of education in recent years. These NCES data show that the total cost of tuition, fees, room and board for all public schools rose by 33.3 percent from shool year 1980-81 through school year 1983-84, and that such educational costs increased by 37.9 percent at all private schools during the same period.

The NCES figures are substantiated by similar statistics published by the American Council on Education and the College Boards. Forecasts made by representatives of the educational community indicate there will be another 8 percent increase in these costs by the next school year.

It should be emphasized that the statistics I have cited relate only to the cost of tuition, fees, room and board. Unfortunately, we do not have any similar statistics for other educational costs such as books, supplies and equipment which the veteran must pay. It can only be assumed that these costs have also increased, and will continue to do so.

This demonstrates clearly that all costs of education have sharply increased in recent years, and very likely will continue to rise in the years immediately ahead. Accordingly, in our view, a 15 percent across-the-board increase, rather than the 10 percent increase provided by S. 2737, would be more desirable to assist veterans in defraying these increasing costs.

We also believe that increases are warranted in the reporting fees payable to educational institutions and certain training establishments under chapter 36.

Under current law, the reporting fee is computed at the rate of $7 for each eligible individual enrolled in the institution, generally as of October 31 of the reporting year, or at the rate of $11 for each such eligible individual to whom the institution delivered an advance payment check. S. 2737 would increase the basic reporting fee payable to $9 and increase the fee for advance pay processing to $13. The Administration, however, has proposed enactment of legislation which would increase these fees to $11 and $15, respectively.

It has been over 6 years since the reporting fee rates were last increased (from $5 and $6, respectively, to the present rates, by Pub. L. No. 95-202). Educational institutions throughout the country have complained that current payments do not allow them to maintain adequate recordkeeping practices concerning eligible veterans or eligible persons. Schools have also indicated that advance-payment and standards-of-progress reporting requirements have further increased their administrative costs.

We believe the Administration's proposed increase in the reporting fee rates is justified in light of the continuing increases in administrative costs encounted by these schools, and will enhance their recordkeeping and reporting performance.

Finally, S. 2737 would also authorize a 10 percent increase in the rate used to calculate the aggregate of amounts any veteran or eligible person may borrow under subchapter III of chapter 36. Notwithstanding such increase, the total amount a veteran or person could borrow in any 1 regular academic year would remain $2,500.

The VA's education loan program has experienced an excessively high default rate resulting in large overpayments and necessitating, in many instances, increased debt collection activities and costs. In recent years, Congress has acted to correct this problem by barring the VA from making these loans to most veterans. As a final step, the Administration has now proposed repeal of the VA's authority to make education loans under, chapter 36. Thus, we oppose any legislation that could result in further potential increases in defaults and overpayments.

Mr. Chairman, we have also been asked to comment on a draft proposed measure which would amend the Emergency Veterans' Job Training Act of 1983 (Public Law 98-77) to (1) extend the operative period of a Certificate of Eligibility furnished to a veteran, from 60 days after the date furnished, to 90 days after such date; (2) provide that funds appropriated to carry out the purposes of the Act will remain available for an additional year, until September 30, 1987; and (3) extend both the last date upon which an eligible veteran may apply for a program of job training under the Act, from November 29, 1984, to May 31, 1985, and the latest date a veteran may begin participation in an approved training program, from March 1 to September 1, 1985.

We favor extending the life of a Certificate of Eligibility to 90 days since it would afford an eligible veteran additional time in which to receive employment counseling and be placed in an approved job training program. It could also reduce the need for, and frequency of, processing requests for certificate renewal.

However, we believe that a 2-month extension of both the application and training commencement deadlines would be reasonable and consistent with current projections. We note that the job training program is enjoying improved success, and a 2-month extension is all we need to make up for the program's slow start. If our current estimates prove to be incorrect, we would then support a further time-limited extension of both the application and training commencement deadlines. Further, this would be accomplished without affecting current funding levels.

Accordingly, subject to the change I have noted, we would favor enactment of this proposed legislation.

Mr. Chairman, that concludes my formal presentation. I would be pleased to respond to any questions you or the other members of the Committee may have.

Chairman **Simpson**. Let me ask then a few questions.

S. 2759 proposes to allow veterans who are rated by the VA as unemployable for purposes of raising their rates of disability compensation anywhere from 60 to 90 percent to the 100-percent rate, to have a trial work period without losing their 100-percent rating. I'm certain that is a sensitive area.

I believe the VA states that these are so-called code 18 unemployability ratings made by a factual determination. Would you explain that more fully and how such determinations could be affected by a code 18 veteran going to work, especially after the unemployability rating has been assigned.

Mr. **Hagan**. I would ask Mr. Mars to respond to your question, Mr. Chairman.

Chairman **Simpson**. Please.

Mr. **Mars**. Mr. Chairman, our procedure is one where an individual who is severely disabled applies to us that he is unemployable. We develop the case on an individual basis. We determine what his educational background is, what his employment history is, and make a determination that he is indeed on a factual basis unemployable.

Normally we don't have anybody coming in shortly thereafter finding employment because the veteran who is severely disabled has been generally out of the employment market for some time. So we don't expect him to come right back in.

In a situation where we find out from the individual that he has attempted or has returned to employment, we develop it further to find out whether or not it is substantial employment or marginal employment, is it employment that we can anticipate will be longlasting or is it something that may last a month or two while he is attempting it.

When we make a determination that he has regained employability, we advise a veteran that we will be reducing him back to his schedular disability rating 60 days after the determination. So that we normally would take anywhere from 3 months and upwards before we would reduce him to his schedular rating. There is no abrupt cutoff. We try to make sure that this is employment that he will maintain.

Chairman **Simpson**. Well, wouldn't most of them reject that advice? In other words, they would remain at 100 percent rather than going back?

Mr. **Mars**. Well, we have to remember that we are dealing with somebody who we look to see what his employment history was. Can he then go back into the employment market. Our determination is at that time that he cannot. It's very rare that one does go back into the employment market. If he has tried the employment and he thereafter finds he cannot maintain it, he can reopen his claim, we will again look at the claim and make a new determination.

Chairman **Simpson**. Would you please give me the figures on how many veterans reopen their claim and what that determination is?

Mr. **Mars**. We don't have those figures because our system isn't geared to maintain those figures. We have been reducing the numbers on our unemployability rolls. We currently have about 85,000 receiving such benefits.

Of the 85,000, about two-thirds are World War II and Korean veterans. And of those two-thirds that are on the rolls now, the average age of the World War II veteran is 63, and the average age of the Korean veteran is 53. So with the severe disabilities it is not likely that many of them would be able to go back into the employment market.

Chairman **Simpson**. It would be interesting to have those figures as to whether they will reapply after they have been in employment. I would be very interested in that. I'll have the staff visit with you and see if perhaps that couldn't be worked into your computer system.

Mr. **Mars**. We'll work with them, Mr. Chairman.

Chairman **Simpson**. Yes. I'd appreciate that.

As drafted we talk about this trial work period in the first full month following the month in which the total disability rating was assigned. I believe that assumes the veteran is working or has a job which can be started after the rating is assigned.

Would a veteran who is working or who has a job lined up ever be assigned a code 18 rating?

Mr. **Mars**. It would be very rare under our current procedures because we go back into the entire history, what his last employment was. We contact the last employer as to why he left. Is there any special reason why he couldn't continue employment? And generally, we find that these are individuals who only rarely could come back into the employment market.

Chairman **Simpson**. And how many veterans do you say are rated 100-percent for unemployability under code 18?

Mr. **Mars**. We currently have about 85,000.

Chairman **Simpson**. How many of those veterans have a neuropsychiatric rating?

Mr. **Mars**. Basically, these are individuals with physical disability. For most of the neuropsychiatric disabilities the rating schedule calls for 100-percent rating where there is social and industrial inadaptability for employment. Normally they would get a schedular 100-percent rating rather than the code 18 rating.

Chairman **Simpson**. I am interested in determining whether a code 18 rating is a disincentive to a veteran's rehabilitation. Perhaps it does provide a disincentive to go back to work. I wonder then about the rating of unemployability. Should that be revised or changed in some way? What do you think about that?

Mr. **Mars**. Well, we have had quite a bit of attention in the code 18 area the last few years. We have been reviewing all of the cases and seeing what is involved. We have not gone into the aspect of whether or not it is disincentive to seeking employment.

Basically, the veterans who apply for it are those who are out of work and have been unable to maintain employment. Many of them have been employed for a number of years and the disability just prevents them from working.

Chairman **Simpson**. Thank you.

We now recognize the presence of Senator Boschwitz of Minnesota who is a new and very attentive member of the Veterans' Affairs Committee. I appreciate the time and effort he gives to it.

Thank you. Nice to have you here, as usual.

Senator **Boschwitz**. As the electoral cycle approaches the overwhelming need of returning yourself and myself to office was accentuated just now by a statement Mr. Mars, I believe, said that since the Korean veterans are on average 53, which is about our age, Mr. Chairman, that it is unlikely that they can get back into the employment market. So with good luck we will not have to face those vigors, being of about that age. And that struck me as he——

Chairman **Simpson**. Very thoughtful. Beautifully said.

Senator **Boschwitz**. Mr. Chairman, I thank you very much for allowing me to interrupt you briefly in this compensation hearing. I concur that we should move forward with the compensation COLA legislation—as you know I am sympathetic to it. And as you also know, for the past 5 years I, along with yourself and Senator Cranston, have been trying to correct an inequity in the VA policy toward those veterans with alcohol and chemical dependency. That has been particularly important as an issue in recent years.

To be specific, Mr. Chairman, I am referring to the VA's policy of refusing to grant GI bill deliminating date extensions to veterans who are chemically dependent. The VA's reason for these denials is that alcoholism is willful misconduct, and therefore does not meet the criteria of physical or mental disability.

I believe this is an outdated assumption. I continue to believe that it should be changed.

Mr. Chairman, three times we here in the Senate have passed legislation to remedy this situation but we have not been successful in getting the House to go along. I believe it is time to try again and simply want to announce my intention of working closely with you and Senator Cranston to see that this needed change is included in this bill.

I have a more detailed statement prepared that I would like to insert in the record.

I would hope that those in the audience and, Mr. Chairman, yourself and others, would make a really concerted effort this time, and I will as well, with a particular Member of the House who sees this as something to object to. If we are going to help veterans, particularly from the Vietnam era, this is the time to do it, otherwise it will quickly become academic.

But quite clearly, some of them have been subject to chemical problems. It is, I think, within any enlightened area of thought, a problem that is more related to sickness than willful misconduct. And hopefully, we will be able to get the needed change through again this year. I am sure we will on this side.

I would appeal to those who read or listen to this statement that they exert a little influence and convincing pressure on our friends in the House so that we could pass this bill and see it made into law.

Chairman **Simpson**. Thank you very much. Your statement is accepted into the record.

[The prepared statement of Hon. Rudy Boschwitz, a U.S. Senator from the State of Minnesota follows:]

## PREPARED STATEMENT OF HON. RUDY BOSCHWITZ, A U.S. SENATOR FROM THE STATE OF MINNESOTA

MR. CHAIRMAN, I WOULD LIKE TO TAKE A LITTLE TIME TO GIVE THE BACKGROUND OF THE ISSUE OF ALCOHOL AND CHEMICAL DEPENDENCY, GI BILL BENEFITS, AND "WILLFUL MISCONDUCT."

THE VA'S POLICY WHEN VETERANS APPLY FOR EXTENSIONS -- OR MORE PROPERLY, TOLLING -- OF THEIR GI BILL BENEFITS IS TO DENY THE REQUEST UNLESS THE VET WAS UNABLE TO USE THE BENEFIT BECAUSE OF A "PHYSICAL OR MENTAL DISABILITY." CLEARLY, ALCOHOL OR CHEMICAL DEPENDENCY WOULD FIT IN THIS CATEGORY. HOWEVER, THE VA GOES ON TO QUALIFY THE DISABILITY CRITERIA BY STATING IT CANNOT BE "THE RESULT OF HIS OWN WILLFUL MISCONDUCT."

IT IS HERE THE VA RULES THAT ALCOHOLISM OR OTHER CHEMICAL ADDICTIONS ARE CAUSED BY "CONSCIOUS WRONGDOING" AND THUS CONSTITUTE WILLFUL MISCONDUCT.

THIS ISSUE WAS BROUGHT TO MY ATTENTION IN MAY 1979, WHEN A VETERAN FROM MY STATE CAME TO ME FOR HELP IN APPEALING HIS CASE. HE HAD BEEN DISCHARGED IN AUGUST 1968 AND HAD RUN THE ROLLER-COASTER OF ALCOHOLISM -- CAN'T HOLD A JOB, CAN'T STAY IN SCHOOL, MARITAL PROBLEMS, ETC. -- FROM THEN UNTIL JANUARY

1975 WHEN HE FINALLY DETERMINED HE NEEDED TREATMENT. HE HAS STAYED CLEAN SINCE COMPLETION OF THAT TREATMENT.

IN HIS STATEMENT, AND IN SUPPORTING STATEMENTS, THE CASE WAS MADE THAT HE BEGAN DRINKING AT AGE 11, WAS A STEADY USER BY AGE 15, AND DRANK THROUGHOUT HIS TWO YEARS IN THE MILITARY.

HOWEVER, THE VA RULED THAT BECAUSE "HIS EXCESSIVE DRINKING EARLY ON WAS UNDERTAKEN VOLUNTARILY, WE FIND THAT HE MAY NOT BE EXCUSED FROM ACCOUNTABILITY FOR TAKING THE EARLY STEPS DOWN THE PATH WHICH EVENTUALLY LED TO HIS DEPENDENCE ON ALCOHOL." THEREFORE THE VA RULED: "THE VETERAN'S PROGRESSIVE OVERINDULGENCE IN ALCOHOLIC BEVERAGES, WHICH EVENTUALLY LED TO HIS ALCOHOLISM WAS BOTH WRONG AND VOLUNTARY." APPEAL DENIED.

MR. CHAIRMAN, IT IS INTERESTING TO NOTE THAT THE TWO MEDICAL DOCTORS INVOLVED IN THE APPEAL BOTH DISSENTED FROM THE DECISION TO DENY.

SINCE THEN, THE SENATE HAS THREE TIMES PASSED LEGISLATIVE LANGUAGE THAT WOULD INCLUDE ALCOHOL OR DRUG DEPENDENCE AS A MENTAL OR PHYSICAL DISABILITY NOT CAUSED BY WILLFUL MISCONDUCT. UNFORTUNATELY, THE HOUSE HAS BEEN UNWILLING TO GO ALONG.

MR. CHAIRMAN, I UNDERSTAND THE PROBLEMS THE VA HAS WITH THIS ISSUE. TO THEM, THIS IS SIMPLY THE FIRST STEP DOWN A ROAD THEY DON'T WANT TO GO -- NAMELY GRANTING ACTUAL COMPENSATION TO VETERANS SUFFERING FROM CHEMICAL DEPENDENCY. I DON'T SHARE THIS FEAR.

THE COMMITTEE ITSELF RECOGNIZED THE POTENTIAL PROBLEM IF CHEMICAL DEPENDENCY WAS RECOGNIZED AS A SERVICE-CONNECTED COMPENSABLE ~~COMPENSATION~~ CONDITION. THE COMMITTEE REPORT (97-89, MAY 15, 1981) CLEARLY STATED THE PROBLEM: "UNDER THAT PROGRAM, AN INDIVIDUAL RECEIVING BENEFITS FOR ALCOHOLISM OR DRUG ADDICTION WOULD HAVE A STRONG FINANCIAL INCENTIVE, IN THE FORM OF A HIGHER RATE OF COMPENSATION OR THE CONTINUATION OF RECEIPT OF COMPENSATION IN THE WORSENING OR PROLONGATION OF THE DISABILITY."

THE REPORT THEN GOES ON TO STATE THAT:

> "IN ANY EVENT, WHERE THE ISSUE IS WHETHER TO GRANT A GI BILL DELIMITING PERIOD EXTENSION, THE COMMITTEE DID NOT PERCEIVE THAT CONSIDERING DRUG AND ALCOHOL DISABILITIES NOT TO BE THE RESULT OF WILLFUL MISCONDUCT IN THE CASE OF A VETERAN WHO HAS RECOVERED FROM THE DISABILITY WOULD HAVE ANY OF THE POSSIBLE UNDESIRABLE CONSEQUENCES THAT MAY SEEM TO ARISE IN OTHER CONTEXTS."

I BELIEVE THIS COMMITTEE WILL CONTINUE TO STRONGLY SUPPORT THIS CONCLUSION.

MR. CHAIRMAN, IN CONCLUSION, I JUST WANT TO NOTE THAT THE VA AND CONGRESS HAVE COME A LONG WAY IN OUR RECOGNIZTION OF ALCOHOLISM AS A DISEASE, AND THE SUBSEQUENT PROGRAMS TO TREAT IT. THE VA'S STRONG SUPPORT FOR A CONTINUATION OF THEIR SUCCESSFUL HALFWAY HOUSE PROGRAM IS BUT ONE EXAMPLE. I BELIEVE ACTION ON THE GI BILL EXTENSION CRITERIA IS SIMPLY ANOTHER SMALL PART OF THE TREATMENT.

Chairman SIMPSON. And you are correct, Rudy, the Senate has passed legislation like this three times to allow veterans who have been treated for substance abuse to extend their period of eligibility. So certainly an educational process in the House would be appropriate on this issue. I thank you.

Do you have any questions you might want to ask the panel?

Senator BOSCHWITZ. No, no. I, if you will continue, Mr. Chairman, I will listen and question as it appears appropriate.

Chairman SIMPSON. All right.

The OPM has proposed an extension of VRA, but also supports a more generous approach for the next 3 years that would remove the 14-year educational limit and allow the maximum grade level for appointment to be raised from a GS–7 to a GS–9.

I think we all would encourage veterans to return to school to increase their career opportunities through further education. However, it seems to me that the reason the VRA program was established was to aid veterans who are educationally disadvantaged and who are not competitive in the job market. It was an opportunity to give such veterans an advantage in the job market.

The proposal submitted by OPM and supported here by some today would allow the same special VRA advantages to Vietnam veterans who might conceivably have a doctorate degree. How can that expansion be justified?

Mr. THOMPSON. Excuse me. If I may.

Chairman SIMPSON. Please.

Mr. THOMPSON. The bill that the VA supports also would eliminate this appointment authority for veterans who have had over 14 years of education. So that concern is addressed in the OPM bill.

Chairman SIMPSON. Eliminates that?

Mr. THOMPSON. Yes, sir.

Chairman SIMPSON. I didn't interpret it that way. It appeared to me it would remove the 14-year educational limit and allow that to be raised.

Mr. THOMPSON. Unfortunately, we did not bring a personnel representative today to provide clarification on that point. I would be glad to provide clarification on that for the record.

[Subsequently, the Veterans' Administration submitted the following information:]

As mentioned by Chairman Simpson, the VA favors improving the VRA authority as provided for in the OPM proposal submitted to Congress on February 24, 1984.

Executive Order 11521, which established VRA authority in 1970, restricted VRA appointments to those who had not completed more than 14 years of education. Congress in 1978 partially removed this restriction by providing that:

". . . a veteran of the Vietnam era who is entitled to disability compensation under the laws administered by the Veterans' Administration or whose discharge or release from active duty was for a disability incurred or aggravated in line of duty shall be eligible for such an appointment without regard to the number of years of education completed by such veteran." 38 U.S.C. § 2014(b)(1)(C).

The OPM proposal (in section 2) would totally remove the restriction in the Executive order by revising section 2014(b)(1)(C) to read:

". . . a veteran of the Vietnam era shall be eligible for such an appointment without regard to the number of years of education completed by such veteran."

Chairman SIMPSON. Well, I think it is important because I don't think that is what we intend to do. We need to clarify that.

If we are talking about readjustment benefits and keeping those in place, I think there is a time to consider that the period of readjustment has concluded itself and such programs are no longer appropriate. I think we ought to examine that if it's readjustment as a temporary state. One does not readjust the rest of their working life.

That is something I want to hear more of Mr. Hagan if you will please furnish that to us.

Mr. HAGAN. We will, Mr. Chairman.

Chairman SIMPSON. We'll check with your staff on the time for that.

Now, I will turn to the issue of the VA legislative proposal to exclude an incompetent veteran's home from his estate when computing the value of the veteran's estate for purposes of the payment of compensation or pension, when such veteran has no dependents and is temporarily institutionalized. What is the definition of an incompetent veteran? Is it usual for veterans deemed to be incompetent to be able to maintain themselves in a home for over a period of years?

Mr. HAGAN. We can declare a veteran incompetent in two ways. One is that the Veterans' Administration can make a rating decision that the veteran cannot handle his or her funds and take care of himself or herself properly. The VA also acknowledges declarations of incompetence issued by courts of competent jurisdiction.

Chairman SIMPSON. Well, when you do declare him incompetent you do go through the court system, do you not?

Mr. HAGAN. Not necessarily, sir.

Chairman SIMPSON. You don't?

Mr. HAGAN. We can do it ourselves by a rating determination. We do have to have a fiduciary appointed.

Chairman SIMPSON. Yes.

Mr. HAGAN. And so they would have to go to the court to get a fiduciary.

Chairman SIMPSON. That's what I'm saying. There would be some fiduciary appointment made?

Mr. HAGAN. Yes, there would.

Chairman SIMPSON. Through a court of that jurisdiction?

Mr. HAGAN. Yes.

Chairman SIMPSON. And are there protections to assure that the VA benefits paid to the institutionalized incompetent veterans go to that veteran's indebtedness that is owed to various creditors?

Mr. **Hagan**. The fiduciary has that responsibility. But once the veteran's estate reaches $1,500, then we no longer are able to pay benefits to the veteran. Our concern is that the veteran who is institutionalized for short periods of time and then released from the institution comes back and finds that his or her home has been foreclosed on for lack of mortgage payments because the fiduciary didn't have the funds to pay.

Chairman **Simpson**. So $1,500 is the minimum, when it goes down to $500 you can trigger them back in?

Mr. **Hagan**. Yes, we can trigger them back in.

Chairman **Simpson**. We're not dealing with a great span at all.

Mr. **Hagan**. No, sir, we are not. And this has been, this $1,500 limitation has been in existence for years.

Chairman **Simpson**. Yes.

Mr. **Hagan**. It has not been adjusted.

Chairman **Simpson**. There is no cost estimate with your proposal here. Are you able to calculate how many veterans would be affected by that?

Mr. **Hagan**. It would not be a large number. And we are saying that there would probably be a cost involved. We are not sure how much, but it probably would be less than a million dollars.

Chairman **Simpson**. Do you have any data on that as to how many are involved?

Mr. **Hagan**. I'm afraid that I do not have it with me, but I will check. And if so, we will furnish it for the record.

[Subsequently, the Veterans' Administration submitted the following information:]

We have no data as to the number of veterans currently affected, or potentially affected by the proposed legislative amendment. We supplied the names and claim numbers of 10 cases to OMB upon their similar inquiry. These cases were obtained on the spur of the moment via a fast-line request to all VSO's for any case they had come across recently wherein the veteran lost his house or the potential loss was imminent. In order to obtain a more accurate number of all the veterans potentially affected, we would need to have our field personnel accomplish a manual review of some 55,000 case folders. This special review would be costly in terms of man-hours diverted from regular workloads. We do not expect the proposal, if enacted, to cost the Agency anything in administrative costs. The only funding issue involved, and which cannot really be considered a cost, is the amount of benefits that would not be withheld while the veteran was subject to the provisions of 38 USC 3203(b)(1). Since the veteran has basic entitlement to these monies, and since the monies are returned to the veteran after 6 months has elapsed after rerating to competent, the funds would be withheld but for the provision of the proposal should not be considered a cost item. The monies withheld and not payable upon the death of the veteran are more of a windfall gain than a savings. The amounts of money currently withheld are not tracked at this time. It might be possible to devise a computer program to identify the current withholding cases but we do not know how pure the data would be for purposes of this inquiry. Another figure we cannot project is the number of veterans who are currently competent home owners and who may fall under the provisions of the law in the future. These are the veterans who we would also protect by the proposal.

One cost to the Agency that should be considered is that which is incident to the processing on a VA loan guaranty foreclosure. We do not know how many of the veterans currently subject to or potentially subject to the law are buying their homes with a VA loan guaranty; however, it does cost the Agency approximately $9,200 to process each default to foreclosure. At today's rate of 100 percent compensation that is about 7 to 8 months of withholding. Nor are we considering the burden to the public when the mortgage holder must process on the default. These are real issues for consideration.

Chairman **Simpson**. It would be good because if, you have a lack of data as to how many are involved or what the cost is, then I would be interested in knowing how the information was obtained to justify the change would even be advisable.

Mr. **Hagan**. Well, we have run into situations where veterans have lost their homes. I don't have a number with me today, but I know that it does happen and we have a concern about these veterans.

Chairman **Simpson**. I would be very interested in knowing the figures on that.

Mr. **Hagan**. We shall furnish them.

Chairman **Simpson**. Good.

Can the VA computer system handle the payment of compensation and DIC COLA's with a new effective date? That will mean for the first time all increases for compensation, DIC, and pension will have to be programed at the same time. Can the VA handle that?

Mr. **Hagan**. We have not missed making the adjustment in past years. And I guess if we have to do it for compensation and pension at the same time we would be able to accomplish it.

Chairman **Simpson**. But you believe you can accomplish that?

Mr. **Hagan**. Yes, sir.

Mr. **Mars**. It's going to be——

Chairman **Simpson**. You're going to find out pretty soon, aren't you?

Mr. **Hagan**. It will be difficult. Yes.

Mr. **Mars**. It's going to be very difficult because at the same time that we have the automatic COLA for pension we have all of our end of the year adjustments, we have our computer tie-ins with Social Security, pass back and forth our tapes, so that it will be a big strain on the system. We have been exploring how bad a strain it will be.

Chairman **Simpson**. Well, that's one area we will find out about before you will. So stay alert. Thank you.

Six months extension of the jobs bill. That is a proposal for a 6-month extension. Do you find that after the slow start, both interested employers and veteran trainees have come forward in sufficient numbers to take advantage of the benefits offered within the current timeframe?

Mr. **Hagan**. We have had a very good response from both veterans and employers. We have not approved the number of veterans that we would like to have seen approved for this program. But we think that we are making progress.

Chairman **Simpson**. Do you believe that there is any emergency situation with respect to job training for those eligible under Public Law 98-77?

Mr. **Hagan**. For those that are unemployed, yes, sir, there is an emergency. The economy has improved but there are still a number of veterans who remain unemployed. We are outreaching both through the Veterans' Administration and through the Department of Labor. And we think that if there is an extension then a 2-month extension would be adequate at this time.

Chairman **Simpson**. Let me ask you how many veterans have been lined up with jobs to this date and how much money has been expended to this date?

Mr. **Hagan**. I am going to ask Mrs. Leyland to read this chart.

Chairman **Simpson**. Thank you.

Mrs. **Leyland**. As of the 26th of June, 8,347 veterans have been placed in jobs.

Chairman **Simpson**. At a cost of?

Mrs. **Leyland**. A total cost of $36.8 million.

Chairman **Simpson**. 8,000 veterans at $36 million. It seems kind of heavy per person when you break it down like that. I don't know how you could do any more outreach to let veterans know what is available here. I don't know what more could be done. But certainly we would like to know if there is a demonstrated need for an additional month in which to take care of job training for veterans who are certified. And that will be part of what you can furnish us.

Mrs. **Leyland**. To date, 154,784 veterans have been certified.

Chairman **Simpson**. OK, that's the full amount of certified veterans?

Mrs. **Leyland**. That's right.

Chairman **Simpson**. That does not mean they have been employed?

Mrs. **Leyland**. No. The 8,347 are those that have been matched up with a job.

Chairman **Simpson**. And yet 157,000 have been certified?

Mrs. **Leyland**. Approximately 155,000.

Chairman **Simpson**. Why that great disparity between those certified and those taken on?

Mrs. **Leyland**. If I knew the answer to that we would have the miracle we're looking for. It's matching up with the employers.

Chairman **Simpson**. And then here we set up a program where the employer is really almost in a sense risk free. I, and I think the committee, would be interested in knowing your views as to why there exists such a disparity between 155,000 veterans certified and 8,000 veterans working. I would be very interested in that.

Mrs. **Leyland**. We will furnish that.

Chairman **Simpson**. Yes.

[Subsequently, the Veterans' Administration submitted the following information:]

Because of the delay from the passage of EVJTA to actual funding, employers were hesitant to participate for various reasons. The reaction is consistent with the slow start-up period associated with most broad-based national programs, which, with time, are met with progressively more receptive attitudes. There has been noticeable improvement in convincing high quality employers that this Act will benefit them in finding qualified long-term employees.

There is a natural time lag between the date the employer hires a veteran and the date the paperwork is submitted to the VA for processing. Additionally, employers appear to be slow in submitting the required paperwork. The actual number hired is likely to be considerably higher.

While it is true that only slightly more than 8,000 veterans had been hired under the provisions of this Act at the time of the hearing, the number of veterans being hired has been increasing. For instance, during March an average of 340 veterans per week were hired while recently (4-week period ending on July 9) 456 veterans per week were hired. (Over 9,900 veterans have been hired as of July 23, 1984.)

The total number of veterans hired without the aid of EVJTA cannot be accurately projected. Unemployment among the program's targeted groups, the Korean conflict and Vietnam era veterans, has been declining due to the improving economy, and is expected to continue to do so.

Mrs. LEYLAND. There is at the present time a contract that has been awarded for a review of the program. And that is ongoing at this time.

Chairman SIMPSON. I'm sure that geographical factors take place there where there may be a job market in, say, California where there would be employment available and, say, unemployment in the Pittsburgh area. Maybe that's something that should be examined.

I have some questions on the automotive adaptive grant increase. I think I will just put those in the record and ask you to answer them. That is a one-time benefit on the automotive adaptive grant increase.

Over the last 5 years how many veterans have become eligible each year for that grant?

Mr. HAGAN. I'm afraid I will have to submit that for the record.

Chairman SIMPSON. OK.

[Subsequently, the Veterans' Administration submitted the following information:]

There were 963 automobile allowance grants in fiscal year 1983, 1,066 in fiscal year 1982, 1,086 in fiscal year 1981, 1,218 in fiscal year 1980, and 1,337 in fiscal year 1979.

Chairman SIMPSON. It would be useful to me if you could provide a historical overview of the amount of the automobile assistance allowance, the models, the price range of the vehicles purchased, where the vehicles are purchased, and the type of disability.

Mr. HAGAN. Yes, sir.

[Subsequently, the Veterans' Administration submitted the following information:]

The maximum automobile allowance payable in 1946 was $1,600. The maximum was increased to $2,800 in 1971, to $3,300 in 1975, to $3,800 in 1978 and to $4,400 in 1981. We have no information regarding the models and price range of the vehicles, nor do we have any breakdowns of the geographical locations or types of disabilities.

Chairman SIMPSON. I have another question or two on the certification and reporting fees.

I also had a question on behalf of my friend from California. I believe Mr. Coy is here.

Mr. HAGAN. Yes, he is.

Chairman SIMPSON. Just for the record, Bob, I understand that you were in Los Angeles recently and had an opportunity to look into the status of the land in West Los Angeles that was the subject of H.R. 2629, which is pending in the committee. That bill modifies restrictions placed on the use of land. It is to be used as a research and medical center and for related purposes when it was deeded by the VA to the State of California.

Questions have been raised whether some recent uses of that land were in conformance with restrictions on the deed. After personally viewing the property and meeting with the various interested parties about that matter, in your opinion, do any of the State's present activities of the property constitute any nonconforming use?

Mr. COY. Mr. Chairman, the issue that had been raised was whether or not certain parking usages of a part of the land were in violation of the restrictions in the deed and in the statute. There was an investigation by a GSA investigator which indicated that he believed that there was a lot of public parking taking place.

As a result of my meetings 2 weeks ago with the university people and after taking a look at the situation, it appears to me that something in excess of 94 percent of the parking was in fact university related. Now, it might not have all been totally related to the medical center, but you have to understand there are various lots that people can choose. If you force the people from the medical center to park on that lot it probably would have filled it up.

I believe that the public parking—and there was some public parking allowed as a community service by the university—I think the public parking was basically de minimis. It was basically in the evenings.

We had a discussion with the chancellor and the vice chancellor, and it was agreed that there would be some further tightening up of public parking to be sure that there are no questions to be raised about a nonconforming use. In conclusion, it is my personal view that there is no longer that basic concern. For all practical purposes they are conforming with the restrictions of the property.

Chairman SIMPSON. OK. So that in light of your evaluation, there are no impediments there, no need to modify the restrictions in the law and the uses of that land?

Mr. COY. No. I am personally aware of no further legal issues or restrictions that would impede proceeding with the legislation under consideration. It seems to me that there is consistency between what is proposed in this legislation and the overall plan. I see no objection legally, certainly, or any other way to proceeding.

Chairman SIMPSON. OK, thank you, Bob. I appreciate that.

I thank the panel very much.

Mr. HAGAN. You are welcome, Mr. Chairman.

[The responses of the Veterans' Administration to written questions submitted by Hon. Alan K. Simpson, chairman of the Senate Committee on Veterans' Affairs, and Hon. Alan Cranston, ranking minority member of the Senate Committee on Veterans' Affairs, follow:]

RESPONSE OF THE VETERANS' ADMINISTRATION TO WRITTEN QUESTIONS SUBMITTED BY HON. ALAN K. SIMPSON, CHAIRMAN OF THE SENATE COMMITTEE ON VETERANS' AFFAIRS

Question 1. OPM has proposed an extension of VRA but also supports a more generous approach for the next three years that would remove the 14 year educational limit and allow the maximum grade level for appointment to be raised from a GS-7 to GS-9.

All of us would encourage veterans to return to school, if possible, to increase their career opportunities through further education. However, it seems to me that the reason the VRA program was established was to aid veterans who were educationally disadvantaged--who were not competitive in the job market. VRA was designed to provide a "leg up" to such veterans. The proposal submitted by OPM and supported by several witnesses would allow the same special VRA advantages to Vietnam veterans who might conceivably have a doctorate degree. How can such an expansion be justified?

Answer 1. We agree with OPM that the change from GS-7 to the GS-9 grade level achieves increased flexibility to agencies making appointments and it recognizes that many Vietnam Era veterans have obtained the necessary education and experience to qualify for this higher grade. Extending this special hiring authority to GS-9 positions would be appropriate because entry professional levels normally are in the two-graded series, i.e., GS-5, 7, and 9. At the same time, it continues to be consistent with the goals of the VRA program.

In Executive Order 11521 of March 1970, establishing the VRA Program, it was noted that the nation had an obligation to assist veterans of the armed forces to readjust to civilian life and that veterans, by virtue of their military service, had lost opportunities to pursue their education and training which was usually oriented towards civilian careers.

These earlier efforts to meet the needs of the recently discharged and low skilled veteran were beneficial, but limited. This concept was extended, and expanded by P.L. 95-520 and P.L. 97-72. Under these laws, the VRA eligibility criteria was changed to meet the unique needs of Vietnam Era veterans in the current labor market. The concept that the VRA program applies only to recently discharged veterans or those without marketable skills was modified. Unlike the earlier criteria which limited the period of eligibility, or the program emphasis which served to exclude some VRA's who had marketable skills, the emphasis is now on expanding opportunities for employment of all eligible Vietnam Era veterans, regardless of skill or educational level.

According to Department of Labor (DOL) figures, there were 342,000 unemployed Vietnam Era veterans as of May 1984. Thus, there continues to be a definite unemployment problem among Vietnam Era veterans. The first quarter 1984 average rate of unemployment for Vietnam Era veterans 25-to-29 years was 12.5 percent compared to 9.7 percent for nonveterans; 30-to-34 years was 9.6 percent compared to 7.4 percent nonveterans. This high rate of unemployment among Vietnam Era veterans may be reduced by extending the VRA program.

Many Vietnam Era veterans have elected to use their GI Bill benefits to obtain education beyond 14 years. Hoping to obtain employment after acquiring this education, they find that employment in the Federal civil service is frequently still unavailable. To deny Vietnam Era veterans employment because they elected to enhance their education, defeats the main purpose of the VRA program which is to provide long term employment opportunities to Vietnam Era veterans.

Question 2. You support an increase even larger than the one proposed by Senator Cranston, I've had no letters on this subject, so it would be useful to me if you could provide a historical overview of the amount of the automobile assistance allowance; the models and price range of the vehicles purchased according to the geographical location and the type of disability.

Answer 2. This program began during WWII as a readjustment benefit. The maximum automobile allowance payable in 1946 was $1,600. In 1971 the maximum was increased to $2,800, in 1974 to $3,300, in 1978 to $3,800 and in 1981 to $4,400. The average cost of a new car increased by almost 18 percent between 1981, when the last increase was enacted, and 1983. We have no information regarding the models and price range of the vehicles, nor do we have any breakdowns of geographical location or type of disability.

Question 3. If a veteran is service-connected at a less than total rate and has a non-service-connected spinal cord injury, is that individual ever eligible for either the automobile grant or auto adaptive equipment?

Answer 3. The veteran would not be entitled to the automobile allowance or adaptive equipment under Chapter 39, title 38, United States Code, based on the non-service-connected disability. The veteran would be entitled to the automobile allowance and/or adaptive equipment if service-connected disability or disabilities met the eligibility requirements of section 1901 or 1902, title 38, United States Code.

Question 4. This allowance is a "one time" benefit. Over the last 5 years, how many veterans have become eligible each year?

Answer 4. Automobile allowance grants totaled 963 in fiscal year 1983, 1,066 in fiscal year 1982, 1,086 in fiscal year 1981, 1,218 in fiscal year 1980, and 1,337 in fiscal year 1979.

Question 5.

The Office of Personnel Management administers the Veterans' Readjustment Appointment (VRA) program which provides non-competitive civil service appointments for eligible veterans up to a GS-7 grade level. This program was initiated to give a "leg up" to Vietnam and certain disabled veterans who were trying to adapt to civilian life and re-enter the work force. Senator Cranston has proposed that this program be extended. Is the employment rate of Vietnam and disabled veterans any different than when VRA was established?

Answer 5.

Yes. Recent unemployment rates for male Vietnam-era veterans have been higher than in 1974 when Congress established the authority for veterans readjustment appointments (VRA). (Unfortunately, the unemployment rates of female Vietnam-era and disabled veterans are not compiled.) The table below shows representative employment rates for 1974, 1983, and 1984.

UNEMPLOYMENT RATE FOR
VIETNAM-ERA VETERANS
(SEASONALLY UNADJUSTED)

| | 1974 | 1983 | 1984 |
|---|---|---|---|
| JUNE | 4.7% | 8.4% | 5.4% |
| DECEMBER | 7.0% | 7.0% | ---- |

Source: Bureau of the Census, Current Population Survey

Because these rates are not seasonally adjusted, only rates from the same months should be compared. In addition, the 1974 rates are not based on the unemployment of all male Vietnam-era veterans. Instead, they are based on a survey of male veterans aged 20-34 years (89% of all Vietnam-era veterans at that time). Most of the Vietnam-era veterans not included in the 1974 rates were older than 34 years. If these older veterans had been included in the 1974 rates, the 1974 rates would probably be lower. The 1983 and 1984 rates were derived from a survey of all male Vietnam-era veterans regardless of their age.

Question 6.

Should a "readjustment" benefit remain in place, or is there a time to consider that a period of readjustment has elasped and such programs are no longer appropriate?

Answer 6.

From a governmental perspective, there may come a time when a readjustment benefit appropriately should be terminated. This necessarily is determined by the purposes and goals for which the benefit is being provided and the extent to which these have been, and can continue to be, achieved with the limited resources available. Certainly, at a minimum, such benefits should remain available until each eligible veteran has had equal, reasonable, and fair opportunity to take advantage of the assistance provided.

The purpose that underscores all educational assistance programs—World War II, Korean conflict, and the current GI Bill—has been to assist our Nation's veterans in making the adjustment from military to civilian life. In particular, this assistance was, and is, in the form of financial aid to obtain an educational status that these veterans might normally have aspired to and obtained had they not served their Country. From the very beginning of these programs, it was never contemplated that this assistance was to be a continuing benefit. These programs were meant to serve as readjustment measures during the period following a veteran's release from military service.

Veterans eligible under the current GI Bill generally have 10 years from the date of discharge or release from active duty in which to use educational benefits to complete an approved program of education. This eligibility period is far longer than that provided under either of the previous GI Bills, and represents a sufficient period of assistance to meet the readjustment concept of the present law. Further, it must be noted that the Congress has provided limited extensions of the basic eligibility period to address special readjustment needs. Under these circumstances, we believe that further extension of the current delimiting date provisions is not warranted.

While we find no justification for extending the delimiting period applicable to an individual veteran, this situation must be distinguished from the December 31, 1989, statutory termination date for all payments of educational allowances under the current GI Bill. As you are aware, the Administration is on record as favoring repeal of the 1989 educational benefits program termination date, so as to afford those veterans discharged after December 31, 1979, the full 10-year delimiting period granted other eligible veterans in which to use their earned educational entitlement. We believe that repeal of the 1989 termination date accords with the equal-benefit-for-equal-service approach traditionally embraced by the readjustment concept of the GI Bill.

Question 7.

If "readjustment" is, as the name implies, a temporary state, how do we accurately determine when such a period is over?

Answer 7.

Historically, the readjustment concept which grew out of the World War II and Korean conflict GI Bills, and which has been continued in the current GI Bill, reflected a recognition that constructive aid was need most during the period immediately following discharge or release from service. Also recognized, however, was that the nature and amount of such aid must be related to individual needs. It is this individuality of circumstances which makes it impossible to accurately assign a universally applicable delimiting period for readjustment. Unfortunately, some veterans may never readjust following the disruption to civilian life and the exposure to physical and mental hazards unique to the wartime military service experience.

As mentioned in our response to the previous question, readjustment assistance should, at a minimum, remain available until each eligible veteran has had equal, reasonable, and fair opportunity to take advantage of the assistance provided.

Question 8.

Do you believe that with the recovering economy there remains an "emergency" situation with respect to job training for veterans who would be eligible for training under Public Law 98-77?

Answer 8.

Certainly the situation with the economy is such that there is not the same sense of urgency or "emergency" that existed when EVJTA was enacted in August 1983. Nevertheless, there are still large numbers of unemployed veterans who could certainly benefit from EVJTA.

Question 9.

Please furnish your views on why there is such a disparity between the number of certifications and actual placements.

Answer 9.

Because of the delay from the passage of EVJTA to actual funding, employers were hesitant to participate for various reasons. The reaction is consistent with the slow start-up period associated with most broad-based national programs which, with time, are met with progressively more receptive attitudes. There has been noticeable improvement in convincing high quality employers that this Act will benefit them in finding qualified long-term employees.

There is a natural time lag between the date the employer hires a veteran and the date the paperwork is submitted to the VA for processing. Additionally, employers appear to be slow in submitting the required paperwork. The actual number hired is likely to be considerably higher.

While it is true that only slightly more than 8,000 veterans had been hired under the provisions of this Act at the time of the hearing, the number of veterans being hired has been increasing. For instance, during March an average of 340 veterans per week were hired while recently (4-week period ending on 7/9) ~~595~~ 456 veterans per week were hired. (Over 9800 veterans have been hired as of 7/9/84.)

The total number of veterans hired without the aid of EVJTA cannot be accurately projected. Unemployment among the program's targeted groups, the Korean Conflict and Vietnam Era veterans has been declining due to the improving economy, and is expected to continue to do so.

Question 10A. How many veterans have applied for the $5,000 specially adapted housing grant for service-connected disabled veterans who suffer from total blindness or a loss of or loss of use of both upper extremeties?

Answer 10A. From October 1, 1980 thru June 30, 1984, 576 veterans, who are blind or who have lost or lost the use of both hands, have applied for the benefit available under 38 U.S.C. 801(b).

Question 10B. Have any of these applications been denied? If so, for what reasons?

Answer 10B. Of these 576 applications, 20 have been denied. They were denied for two reasons: Either the adaptations requested were not considered reasonably necessary based on the veteran's disability or the veteran requested maintenance rather than adaptations to the house.

Question 11.

What criteria are used in making determinations of eligibility for this grant?

Answer 11.

To be eligible for assistance under 38 U.S.C. 801(b), it must be determined that:

a. The veteran has not been declared eligible for assistance under section 38 U.S.C. 801(a) - "wheelchair housing" benefit

b. The veteran has not been provided the particular type of adaptation under 38 U.S.C. 612(a) - Home Improvement & Structural Alterations benefit

c. The veteran is or will be residing in and reasonably intends to continue residing in a residence owned by such veteran or by a member of such veteran's family

Question 12.

Please provide for the record a list of such grants which show the veteran's disability, the adaption, the year adaption was made, and the cost.

Answer 12.

We do not keep records which would allow us to produce a list of grants that would show the veteran's disability, the adaptation, the year the adaptation was made, and the cost. The information is contained in individual case files which are kept at the field stations. Of the 519 grants that have been made, 280 (54%) were less than $5,000 while 239 (46%) were at the maximum, $5,000.

Question 13.

Do you have evidence to indicate that a 20 percent increase (or any increase) in this grant is needed? If so, please explain.

Answer 13.

According to Construction Review, U. S. Dept. of Commerce, March-April 1984, Vol. 30, No. 2, p. 52, table E-1, from 1980 to 1984 the cost of residential construction has increased by 21.1%. Since the cost of remodeling typically runs higher than new construction, we believe that a 20% increase in the special housing adaptations benefit is justified.

Question 14.

Is it usual for veterans deemed to be incompetent to be able to maintain themselves in a home over a period of years?

Answer 14.

It is not unusual for veterans deemed to be incompetent to be able to maintain themselves in a home over a period of years; however, the degree of self maintenance will vary. The fact that a veteran may be declared incompetent does not necessarily mean that the person is totally devoid of all contact with reality nor totally incapable of the mundane routines of daily living. A determination of incompetency is based on mental incapacity and the veteran's inability to prudently manage VA benefits without limitation. Any number of conditions may affect mental capacity, some more debilitating than others. The degree of incapacity from any one condition also may vary from person to person. So where one VA rated incompetent veteran may be nonfunctional physically and mentally, another may be fully ambulatory with more periods of lucidity than not. Because of these factors the degree of external involvement with the veteran's management of his or her home will also vary. An incompetent veteran who is paid as an SDP (supervised direct payment) beneficiary sometimes has full control over income and estate management, supplemented by periodic reviews (annually or less than annual) by VA field examiners. In other cases a fiduciary may maintain full control of the veteran's income and estate to the extent of paying all the veteran's living expenses, mortgage, utilities, food, etc., while providing the veteran with only a personal needs allowance. In some extreme cases even the personal needs allowance is limited. These factors, coupled with the current monthly compensation benefits available to eligible incompetent veterans make it all the more possible for a single incompetent veteran to qualify for and maintain a house of his or her own. In some cases the veteran may have qualified for a mortgage prior to the onset or the increased severity of the disability which resulted in the incompetency rating.

Question 15.

If no data exists, how do we know how many would be involved in this change?

Answer 15.

We do not know how many veterans will be affected by the proposed change. OMB had a similar question when reviewing the proposed legislation. A conference call was placed to all the Veterans Services Officers at our field stations requesting the name, claim number and short synopsis of any fiduciary case they or their staffs could remember in recent time involving a situation wherein the potential for immediate loss of home existed or loss of home actually took place. They had one day to respond. Listed below by field station of jurisdiction, name, claim number, and in some cases a short synopsis, are the 10 cases submitted at that time:

## COLUMBIA, SOUTH CAROLINA

| | |
|---|---|
| Jimmy L | Veteran lost home |
| James D<br>John H | In both of these cases the veteran has just enough VA income to meet the mortgage and other living expenses. If hospitalized at VA they will each lose a home. |

## DETROIT, MICHIGAN

| | |
|---|---|
| Jerry H<br>George L | |

## SEATTLE, WASHINGTON

| | |
|---|---|
| Richard H | Veteran had a $4,700 overpayment as a result of the $1,500 estate limitation while hospitalized. He has m/s and gets $3,017 per month. He has a house valued at $65,000 net at a forced sale. He will be hospitalized again and stands to lose his home when VA suspends payments again. |

## MUSKOGEE, OKLAHOMA

| | |
|---|---|
| William W<br>Thomas M | These two are similar in in that each owned a mobile home. In the former case the veteran's sister paid the house payments out of her own income. This created a hardship on the sister. Eventually the trailer was deeded over to to the sister to repay her for her efforts and the large debt she incurred. The veteran lost his home. In the latter case the trailer was deeded over to an aunt for the same reason. |
| Kineon C | Veteran owned a mobile home and 5 acres. He did not lose his home because his mother made the payments at great hardship to herself. He had a home to go home to after release from the VAMC. |

### ST. LOUIS, MISSOURI

| | |
|---|---|
| Robert J. S | **Veteran was having difficulty in making home payments because of the suspension under the $1,500 estate limitation. The field station has requested an opinion from the District Counsel in an effort to help the veteran avoid the loss of his home.** |

Question 16. What plans will be made to collect data necessary to learn the numbers of incompetent veterans who might be affected by such a change?

Answer 16. We are not making any plans at present to collect such data. There is no quick way that we know of to identify the cases involved. Our field personnel would be required to perform a manual search and review of some 55,000 case folders to identify all those potentially affected.

Question 17. How was the determination made that such a change would be advisable?

Answer 17.

Over the past few years members of the Fiduciary and Field Examination Staff (274) have received informal inquiries from many different sources to include representatives of veterans services organizations regarding this issue. The number of inquiries seems to have increased within this last year. We surmise that the increases in benefits granted to these veterans over the past few years have enabled them or their fiduciaries to afford the downpayments. It seems that the income derived from VA and Social Security is enough to meet the mortgage payments and other living expenses. As mentioned earlier, some of these veterans may have made the purchase of a home sometime prior to the current incompetency ratings. As the veteran population ages, we expect that many more such cases will come to light as more incompetency ratings are made. Not all of these cases will require prolonged hospitalization making it all the more important that we consider maintaining an adequate environment that a personal residence provides upon release from hospitalization. We have found that home ownership in some cases gives the incompetent a sense of pride and security, a sense of normalcy that institutionalization cannot possibly give. This is not to say that home ownership is suitable to all cases or that the VA would encourage the purchase of real property without some assurance that the veteran would benefit by such a purchase. These case evaluations must be made on an individual basis. The existing law does not afford the flexibility to distinguish between the veteran's personal residence and property that is maintained purely for investment purposes. These are just some of the issues which led us to the determination that such a change would be advisable.

Question 18. How often are code 18 ratings re-evaluated?

Answer 18. Annual employment questionnaires are sent for 20 continuous years or until the veteran becomes age 65. Field examinations are conducted 1 year and 19 years after the award of unemployability benefits. Physical or mental examinations are scehduled within the judgment of the rating board. There is no fixed timetable for future examinations.

Question 19. How often are they reversed and under what circumstances?

Answer 19. We have no statistics regarding the number of cases in which the veteran is found to be no longer unemployable. Such a determination would be made only upon evidence of regained employability as shown by the employment questionnaire, field examination or other reliable evidence.

Question 20. Perhaps code 18 does provide a disincentive to go back to work. If so, should ratings of unemployability be eliminated?

Answer 20. No. For some veterans the evaluation based on average impairment of earning capacity is not adequate to compensate for the loss actually suffered. If a veteran is unemployable due to a service-connected disability, a total disability rating is appropriate.

Question 21. It would be a substantial liberalization of "code 18" to allow "unemployable" veterans to have a 9-month trial "work period". If such a provision were enacted, could you project what percent of "working unemployable" veterans would complete the 9-month trial period and give up their code 18 rating to continue working?

Answer 21. We have no way of determining how many veterans now rated unemployable could possibly find employment and, of these, how many would complete the 9-month trial period. Based on our general experience, however, we believe the number would be quite small.

Question 22A.

The VA has proposed to initiate term-by-term certification for schools with VA students. Please explain the rationale behind this decision.

Answer 22A.

Awards of educational benefits are paid monthly to eligible veterans at a rate based on the individual's training time. It has been our experience that a beneficiary's training time often changes from one school term to another. Late reporting of status changes is a major contributing factor to the education overpayment problem. In a report of audit, "Department of Veterans Benefits School Liability Program," our Inspector General found that overpayments of educational assistance allowance could be reduced if schools organized on a term, quarter or semester basis stopped certifying enrollments on a school-year basis and started certifying only one term, quarter or semester at a time.

Question 22B.

Concerns have been raised that administrative burdens to the schools will outweigh any cost savings to the government. What steps have been taken to meet those concerns?

Answer 22B.

The reporting burden connected with certifications of enrollment will increase. However, this increase would be partially offset by a reduction in the number of other reports that schools would have to submit.

Often a veteran will increase or decrease his or her credit-hour load at the start of each term. If the school has certified the enrollment for the entire school-year, it must report these changes to the VA. However, if the enrollment were certified on a term-by-term basis, there would not need to be a separate report of changes. The changes would be reported each time the enrollment certification was submitted at the start of each enrollment period. The VA estimates that reducing the number of changes that must be reported separately will yield a net increase in the time educational institutions spend reporting changes and certifying enrollments at the start of each term by approximately 50 percent.

The educational institutions' reporting burden throughout the school year will be further reduced, because they no longer have to verify each veteran's pursuit at the end of the school year. The VA has determined that certifying enrollments on a term-by-term basis will eliminate the need for verifying pursuit.

Our Inspector General has estimated that $104,975,000 in overpayments will be prevented by term-by-term enrollment certifications from fiscal year 1985 through fiscal year 1989.

Question 22C.

Will the increase in reporting fees that I have proposed help to offset the increased paperwork of the term-by-term certification?

Answer 22C.

Yes. The reporting fee increase contained in S.2737 would definitely help to offset the cost of the increased paperwork. We believe the need for an increase in reporting fees exists now. Should term-by-term certification be implemented, we believe the need for increases would be especially acute. In this regard, we do favor an increase to $11 and $15, rather than the $9 and $13 proposed in S.2737.

Question 23.

Will your change in certification requirements treat all schools equally? For example, I understand that some schools have 3 terms and others have 4 terms.

Answer 23.

School calendars are not all alike. All schools would have to certify enrollments at the beginning of each term.

RESPONSE OF THE VETERANS' ADMINISTRATION TO WRITTEN QUESTIONS SUBMITTED BY HON. ALAN CRANSTON, RANKING MINORITY MEMBER OF THE SENATE COMMITTEE ON VETERANS' AFFAIRS

Question 1. Dorothy, a great many educational institutions and students have contacted me regarding the VA's proposal to require beginning July 1, 1984, term-by-term certifications.
Question 1A. What is the current status of the VA's proposal?

Answer 1A. This proposal cannot be implemented until the pertinent regulations are amended to require term-by-term enrollment certifications. The amended regulations were proposed in the Federal Register of June 30, 1983. The Administrator's Educational Advisory Committee met on June 21, 1984, and expressed the desire to make a recommendation on the proposal. The VA will take no further action until the committee's recommendation has been received and considered.

Question 1B(i). What additional workload is it projected that these certifications will result in for the VA?

Answer 1B(i). If the requirement for term-by-term enrollment certifications is implemented in the fall of 1984, the following additional enrollment certifications are projected:

| | |
|---|---|
| FY 1985 | 738,735 |
| FY 1986 | 647,152 |
| FY 1987 | 579,900 |
| FY 1988 | 515,085 |
| FY 1989 | 460,792 |

Question 1B(ii). How do you propose to handle that workload with a declining DVB workforce?

Answer 1B(ii). The Department of Veterans' Benefits' budget request for fiscal year 1985 reflects a projected increase in enrollment certifications resulting from the implementation of the requirement for term-by-term enrollment certifications. The overall decline in the Compensation, Pension, and Education program staffing is offset by the inclusion of staff required to handle the additional workload. The Department also expects small increases in productivity and effectiveness which will enhance the Department's ability to process the increased flow of enrollment certifications.

Question 1C. What, if any, assessments of the additional workloads for the educational institutions have been made and what do any such assessments show?

Answer 1C. We project that the number of certifications of enrollment submitted by schools will certainly increase. However, this increase will be offset partially by the reduction in the number of the reports of change in student status submitted and the total elimination of the reports of verification of pursuit for college degree students. Overall, we predict that schools will submit approximately 50 percent more enrollment certification reports as a result of the change to term-by-term certification of students.

Question 1D.

Many individuals have asserted that this procedure will result in delayed payments to veterans and other eligible persons at the beginning of each school term. Is that likely to happen and, if so, how long would the delays be on average?

Answer 1D.

We are aware of the difficulties which veterans encounter when their educational assistance checks are late. However, we consider the concern to be somewhat overstated. In fiscal year 1983 the Veterans Administration took 86 percent of the actions required in education claims within 30 days of receipt of the document which indicated the need for the action. While there will be some lowering of the 86 percent figure in fiscal year 1985 as a result of this action and other factors, the loss of efficiency will be very small. If most actions are taken within 30 days, there should be only small delays in benefit payments. It would facilitate our processing if schools would submit the enrollment certification promptly to the Veterans Administration.

Question 1E.

Is there any mechanism - such as an advance payment of benefits - that might be employed to eliminate those delays?

Answer 1E.

Advance payments of benefits will continue. Those veterans and eligible persons who are eligible for advance payment under the school year enrollment certification system would be eligible for an advance payment under the term-by-term certification system.

Question 1F.

My understanding is that this procedure will reduce overpayments to veteran-students in those cases where the veteran-student does not return to school for the second or third term or semester. In your opinion, are veterans who do not return and who do not report their change in status to the school and the V.A. most likely to be full-time students, more-than-half-time students, or half-time-or-less students? That is, is the problem term-by-term certification is intended to address caused principally by half-time-or-less students?

Answer 1F.

For the entire period of the current G.I. Bill the V.A. has awarded benefits to less-than-half-time or quarter-time veterans for only one term at a time. Hence, term-by-term certification is intended to address a problem caused by veterans training on a half-time or greater basis. When our Inspector General conducted the audit which uncovered this problem, he did not keep a record of the training times of the students involved. However, he determined that the average overpayment caused by school year certification was $543 and covered 2.2 months. This yields a monthly rate of nearly $247. During the period covered by the audit, this is approximately the monthly rate payable to a three-quarter time student with no dependents.

Question 1G.

What is your estimate of the dollars that will be saved by implementing this proposal and the cost of implementing it?

Answer 1G.

The Office of the Inspector General has estimated that from fiscal year 1985 through fiscal year 1989 implementing this proposal will cost $11,247,000 and will avoid the establishment of $104,975,000 in overpayments.

Question 1H.

1.H. As I understand it, the conceptual basis for this change in procedure is based on the desire for the V. A. to reduce the number of overpayments created. It seems to me, therefore, that the proposal for Term-by-Term certification is directly related to the VA's ability to collect those overpayments that do occur. That is, if the VA had in place an effective and efficient debt-collection system, the need for a change in policy such as this, which would produce hardships and additional costs for so many in order to prevent a few overpayments, might not be necessary. In this connection, I was extremely disappointed to learn that the authority given the VA in October 1980 -- over three and a half years ago -- to report debts to consumer reporting agencies has not yet been implemented.

Question 1H(i).

Please state what is the status of the implementation of that authority and describe for the record the current plans and timetable for action to implement it.

Question 1H(ii).

What has caused the extraordinary delay?

Question 1H(iii).

What will be the administrative cost of implementation and what is your estimate of the impact that implementation will have on collections?

Answers 1H(i), (ii), and (iii).

The Veterans Administration obtained authority to report delinquent indebtedness arising from VA benefit programs to Credit Reporting Agencies pursuant to Public Law No. 96-466, October 17, 1980. This law amended Title 38, U.S.C. section 3301(g), which had, until that time precluded disclosure of information from VA claimant files for the purposes specified in the amending legislation. Implementing regulations to establish standard procedures were required prior to beginning the referrals. These procedures were published in the Federal Register in December 1981 ( 38 C.F.R. 1.922).

The VA had a number of meetings with various credit reporting agencies' representatives and identified a number of issues which needed to be resolved prior to entering into a contract, e.g., format of submission of data, etc. In the interim, the VA was dedicating the available programming resources to the development and implementation of interest and administrative cost charging. The authority to charge interest and administrative costs was also granted to the VA by Public Law 96-466. The VA implemented the charging of these additional costs on all delinquent education debts in July, 1983.

By August 1983, the VA had developed the first draft of an agreement. This was necessary prior to development of detailed functional and technical specifications for the implementation of the referral process in our computer system. There were a number of difficulties identified in the first draft, some of which required a legal opinion. At that point, the VA was reluctant to devote any resources to designing a referral system or propose changes to the current computer system until all the details were agreed upon.

The VA continued to work with the various credit reporting agencies until we were advised that OMB would be preparing agreements for use by all Federal agencies. The difficulties encountered by the VA continued after the credit reporting agencies began dealing with OMB. This reinforced the VA's belief that all details of the agreement must be finally resolved before proceeding with the development and implementation of the referral process.

In April 1984, at the request of OMB, the VA provided GSA with a Delegation of Authority to enter into agreements with Consumer Reporting Agencies on our behalf.

On June 6, 1984, we were advised by OMB that the need for a Delegation of Authority for GSA had been in error and that we should enter into the agreement ourselves. A copy of the agreement executed by three of the agencies was furnished and it was signed by the VA procurement official and returned on June 8, 1984.

Although the agreements have just been signed and no final specifications have been officially completed, the VA has not sat dormant. Members of the Debt Collection Staff have been in contact with the credit reporting agencies involved and have received and reviewed various documents relating to information required, formatting of records, etc. Discussions were held with the credit reporting agencies' representatives to discuss their requirements, the data processing aspects of the referral procedure and the initial problem areas were identified.

During the analysis and review phase, it has become apparent that the referral process will require a large and lengthy programming effort. Several specific design problems were identified that will require a master record expansion, and reformatted address information, involving several complex areas of the computer system. In addition, new letters for notification purposes must also be written and formatted.

Presently our limited data processing resources are involved in a "clean-up" effort of the Interest and Administrative Cost Charging Project which was implemented in July 1983. Several processing problems have been identified and must be corrected before further development of other initiatives can be pursued. In addition, another legislative initiative, interest charging on compensation, pension and loan guaranty debts, is underway which will also involve a complex system redesign. In light of our limited resources and the intricate and time-consuming nature of the design, writing and programming of the specifications for the above projects, it is not possible at this time to predict either the costs of implementing the credit reporting agency referral procedure or the specific installation date. The initial planning and design phase is underway and when it is completed and functional specifications are written and reviewed by the Data Processing Staff, we may be in a better position to project a realistic cost of implementation and the impact that implementation will have on our collections.

Question 2.

In connection with the measure I have introduced, S. 2760, which would provide for a six-month extension of the Emergency Veterans' Job Training Act of 1983, you note that you support a two-month---rather than a six-month--extension. Please state your reasons for supporting a two-month rather than a six-month extension and any data on which that preference is based.

Answer 2.

We believe that a 2-month extension will be sufficient to offset the slow start that the program initially had. We decided on the 2-month figure based on the fact that the program did not really get moving for approximately this length of time. Nevertheless, if circumstances subsequently warrant extension beyond 2 months, we would then support a further time-limited extension of both the application and training commencement deadlines.

Question 3.

A number of veterans' organizations have indicated in their statements this morning their opposition to your proposal to modify the effective date of a reduction in compensation, pension, or D.I.C. based on school attendance of a payee or a dependent of a payee.

Question 3A.

What is the current practice with respect to the ending date for chapter 34 or 35 payments based on school attendance?

Question 3B.

[If current chapter 34/35 practice is to terminate at end of month] will the proposed change for comp, pension, and D.I.C. benefits also have an affect on the current chapters 34 and 35 policy?

Question 3C.

[If current chapter 34/35 practice is to terminate on date of last attendance] in essence, then, the V.A.'s proposal would bring the manner in which these payments are made under the comp, pension, and D.I.C. programs into line with the way chapters 34 and 35 payments are made, is that correct?

Answer 3A.

In 1976, the Congress amended section 1780, title 38, United States Code, by adding a new provision which prohibits payment of Veterans Administration education payments under chapters 34 or 35 for a course from which the student withdraws, or for a course which will not be counted toward graduation, unless there are mitigating circumstances. If a veteran or eligible person withdraws from a course after the institution's drop-add period and receives a nonpunitive grade for that course, and mitigating circumstances are not found benefits for that course will be terminated effective the first date of enrollment.

If the veteran or eligible person terminates all courses and mitigating circumstances are shown, termination of benefits will be effective the last date of attendance in a residence course.

Answer 3B.

The proposed change will not affect veterans or eligible persons under chapters 34 or 35.

Answer 3C.

The proposal would bring the manner in which payments are made for compensation, pension and DIC programs in line with chapters 34 and 35 residence courses when the individual drops all of his or her courses with mitigating circumstances. Different termination dates are applicable for nonresidence courses.

Question 4.

The American Legion in its testimony suggests that the Emergency Veterans' Job Training Act would be more effective if the VA and the Department of Labor made greater use of the resources of the Small Business Administration.

Question 4A.

What has been the nature of the S.B.A. involvement in the implementation of EVJTA?

Answer 4A.

Since the lists of small business concerns pertain most directly to job development activities under the Emergency Veterans' Job Training Act we would defer to the Department of Labor and the various State employment security agencies for comments on the nature of SBA involvement in the implementation of the EVJTA.

Question 4B.

The Secretary of Labor is, under section 15(d) of EVJTA, required to obtain from the SBA lists of small business concerns to be used to identify and promote possible training and employment opportunities for veterans. To your knowledge, has such a list been requested and/or obtained by the Department of Labor?

Answer 4B.

To the best of our knowledge such a list has been requested by the Department of Labor.

Question 4C.

Has the VA had any contact with the Small Business Administration in this area?

Answer 4C. No.

Question 4D.

Please provide for the record any other comments you have on the Legion's suggestion.

Answer 4D.

No other comments.

Question 5.

The Vietnam Veterans of America have suggested that one way to deal with the wide disparities in the costs of housing vis-a-vis the VA's home loan guaranty program would be to "regionalize" the maximum guaranty. In that connection, please provide for the record the average and median amounts of loans for each V.A. Regional Office for each of the two most recent fiscal years for which you have data and provide your comments on this suggestion.

Answer 5.

Under present secondary market requirements, i.e., FNMA and GNMA, the current Loan Guaranty Entitlement of $27,500 is sufficient to support a no downpayment loan of up to $110,000, an amount in excess of the current average loan amount in each regional office's jurisdictional area as shown on the attached tables (see attachments 1 and 2) (Note: Data to compute the median loan amount for each VA regional office for the two most recent fiscal years was not available.)

In the State with the highest average loan amount, Hawaii, the present maximum loan guaranty amount of $27,500 provides on the average a 26.57 percent protection to participating lenders. This is greater than the 20 to 25 percent down payment protection normally obtained on conventional loans.

We believe that this information shows that there is no region of the country in which veterans are unable to obtain VA home loans because of the maximum guaranty. We do not believe that "regionalization" would improve veterans' ability to obtain suitable housing in high cost-of-living areas of the country, since the ability to purchase homes in these areas is limited more by the veterans' incomes, than by the maximum guaranty amount.

Attachment 1

VA LOANS GUARANTEED
FY 1985

| Regional Office | Number Loans | Average Loan Amt. |
|---|---|---|
| Boston | 1,061 | 47,569 |
| Togus | 462 | 38,683 |
| White River Jct. | 98 | 46,109 |
| New York | 1,219 | 47,637 |
| Buffalo | 753 | 36,812 |
| Hartford | 790 | 54,134 |
| Newark | 4,012 | 54,293 |
| Philadelphia | 2,544 | 41,082 |
| Pittsburgh | 462 | 38,631 |
| Baltimore | 1,442 | 61,871 |
| Roanoke | 3,296 | 59,194 |
| Huntington | 208 | 42,707 |
| Atlanta | 2,634 | 51,838 |
| St. Petersburg | 6,240 | 51,566 |
| Winston-Salem | 2,173 | 47,577 |
| Columbia | 1,672 | 49,964 |
| Nashville | 1,042 | 47,052 |
| New Orleans | 1,246 | 56,373 |
| Montgomery | 1,174 | 44,122 |
| Jackson | 501 | 44,950 |
| Cleveland | 3,139 | 42,948 |
| Indianapolis | 1,449 | 37,184 |
| Louisville | 656 | 39,905 |
| Chicago | 3,774 | 51,045 |
| Detroit | 1,652 | 37,079 |
| Milwaukee | 1,255 | 47,624 |
| St. Louis | 1,085 | 41,014 |
| Des Moines | 376 | 41,701 |
| Lincoln | 755 | 50,497 |
| St. Paul | 2,349 | 64,333 |
| Ft. Harrison | 209 | 49,257 |
| Denver | 4,671 | 68,512 |
| Albuquerque | 327 | 58,804 |
| Salt Lake City | 298 | 58,195 |
| San Francisco | 1,886 | 81,259 |
| Los Angeles | 6,083 | 79,057 |
| Phoenix | 2,510 | 63,475 |
| Seattle | 2,146 | 65,532 |
| Boise | 169 | 51,417 |
| Portland | 124 | 65,701 |
| Waco | 6,913 | 56,340 |
| Little Rock | 299 | 39,249 |
| Muskogee | 2,737 | 47,418 |
| Wichita | 587 | 40,601 |
| San Juan | 151 | 42,578 |
| Honolulu | 225 | 89,373 |
| Houston | 8,957 | 59,689 |
| Anchorage | 711 | 87,458 |
| Washington, DC | 4,412 | 83,226 |
| Manchester | 513 | 54,742 |

Attachment

## VA LOANS GUARANTEED
## FY 1983

| Regional Office | Number Loans | Average Loan Amt. |
|---|---|---|
| Boston | 2,479 | 53,229 |
| Togus | 1,245 | 44,748 |
| White River Jct. | 173 | 50,991 |
| New York | 2,234 | 49,617 |
| Buffalo | 1,381 | 42,370 |
| Hartford | 1,853 | 61,734 |
| Newark | 5,560 | 58,122 |
| Philadelphia | 4,806 | 48,873 |
| Pittsburgh | 1,549 | 42,901 |
| Baltimore | 4,317 | 66,843 |
| Roanoke | 10,165 | 67,111 |
| Huntington | 573 | 48,592 |
| Atlanta | 8,034 | 57,923 |
| St. Petersburg | 12,690 | 57,271 |
| Winston-Salem | 7,310 | 53,100 |
| Columbia | 3,550 | 54,890 |
| Nashville | 4,184 | 53,152 |
| New Orleans | 3,104 | 62,102 |
| Montgomery | 3,821 | 53,080 |
| Jackson | 1,799 | 51,812 |
| Cleveland | 8,487 | 49,471 |
| Indianapolis | 4,232 | 43,981 |
| Louisville | 2,261 | 47,272 |
| Chicago | 9,290 | 58,098 |
| Detroit | 4,066 | 45,281 |
| Milwaukee | 4,179 | 54,439 |
| St. Louis | 3,803 | 49,199 |
| Des Moines | 1,883 | 48,249 |
| Lincoln | 2,350 | 54,927 |
| St. Paul | 7,309 | 66,447 |
| Ft. Harrison | 1,110 | 54,804 |
| Denver | 11,765 | 74,288 |
| Albuquerque | 1,351 | 61,450 |
| Salt Lake City | 1,720 | 62,797 |
| San Francisco | 5,548 | 88,586 |
| Los Angeles | 15,250 | 86,568 |
| Phoenix | 7,360 | 67,052 |
| Seattle | 7,210 | 68,625 |
| Boise | 1,140 | 55,246 |
| Portland | 850 | 68,474 |
| Waco | 12,048 | 61,954 |
| Little Rock | 1,002 | 48,327 |
| Muskogee | 6,738 | 54,846 |
| Wichita | 2,283 | 50,275 |
| San Juan | 128 | 43,707 |
| Honolulu | 902 | 101,961 |
| Houston | 12,505 | 65,776 |
| Anchorage | 1,403 | 97,754 |
| Washington, DC | 8,260 | 91,951 |
| Manchester | 1,426 | 58,469 |

Question 6.

According to VA testimony before this Committee on February 29, in calendar year 1983, over 60 percent of VA-guaranteed loans were made without a downpayment from the veteran-purchaser.

Question 6A. In each of calendar years 1979 through 1983, how many and what percentage of VA-guaranteed loans were made without a downpayment and what was the average purchase price and loan amount?

Question 6B. In the case of loans made with a downpayment, what was the average price and average loan amount in each of the past five calendar years?

Answer 6.

See attachment #3 for information on VA loans which indicates the percentage of VA loans made with and without a downpayment, average purchase price, and average loan amount for each of the past five calendar years.

Attachment 3

6. VA PRIMARY HOME LOANS

A.

NO DOWNPAYMENT LOANS

| CY | Number | % of Total Loans | Average Loan Amt. | Average Purchase Price |
|---|---|---|---|---|
| 1979 | 234,810 | 67.9 | $43,694 | Same As |
| 1980 | 169,837 | 66.4 | $48,079 | Average Loan Amt. |
| 1981 | 89,758 | 66.0 | $50,993 | |
| 1982 | 50,285 | 57.8 | $54,256 | |
| 1983 | 137,315 | 60.3 | $57,206 | |

B.

DOWNPAYMENT LOANS

| CY | Average Loan Amount | Average Purchase Price |
|---|---|---|
| 1979 | $51,520 | $58,841 |
| 1980 | $59,202 | $68,717 |
| 1981 | $64,285 | $74,221 |
| 1982 | $65,971 | $77,930 |
| 1983 | $69,281 | $81,128 |

Question 7.

On page 12 of your testimony, you state, "Schools have also indicated that ... standards-of-progress reporting requirements have further increased their administrative costs." Please indicate specifically what reporting requirement this refers to.

Answer 7.

Some ten years ago, Congress encouraged us to tighten our payment processing procedures and also required institutions of higher learning to more closely monitor the academic progress of veteran-students and to report changes promptly. The term "standards-of-progress reporting requirements" as used in the statement was meant to refer to the reporting which schools must perform to implement standards-of-progress legal and regulatory requirements. These would be reporting requirements over and above the normal paperwork required in the certification of veterans and the reporting of changes in veterans' programs.

Question 8.

Please provide for the record a listing of all the periodic reports which the VA is required to submit to the Congress - either by legislation or by Committee instruction or otherwise - in connection with programs conducted under Chapters 31, 32, 34, 35, and 36 and indicate in each case the basis on which the report is required, the nature of the report, and any recommendation you may have with respect to whether the reporting requirement should be removed.

Answer 8. Following is the requested information concerning periodic reports to the Congress:

| | |
|---|---|
| Report Title: | Advisory Committee on Veterans' Educational Assistance Report or Recommendations |
| Required By: | Veterans' Rehabilitation and Education Amendments of 1980; P.L. 96-466, sec. 346; 94 Stat. 2201; 38 USC 1792(b) |
| Nature Of Report: | Reports and recommendations made by the Committee to the Administrator shall be reported to the Congress by the Administrator. |
| Recommendation: | Retain the report. |
| Report Title: | Annual Report of the Veterans Administration and the Department of Defense: Post Vietnam Era Education Assistance Act of 1977 |
| Required By: | Post Vietnam Era Education Act of 1977; P.L. 94-502, sec. 404; 90 Stat. 2395; 38 USC 1642 |
| Nature Of Report: | Report presents an analysis of the effectiveness and management of educational programs for veterans, along with an analysis of the characteristics of the participants. |

Recommendation: Retain the report.

Report Title: Report on Default on Educational Loans

Required By: Vietnam Era Veterans' Readjustment Assistance Act of 1974; P.L. 93-508, sec. 301(a); 88 Stat. 1589; 38 USC 1798(e)(3)

Nature Of Report: Annual report specifies preceding FY and cumulative default experience (number and dollar values) and default rate of VA education loans.

Recommendation: Retain the report.

Report Title: Annual Report on Deceptive Advertising, Sales, or Enrollment Practices

Required By: Vietnam Era Veterans' Readjustment Assistance Act of 1974; P.L. 93-508, sec. 212(a); 88 Stat. 1586; 38 USC 1796(c)

Nature Of Report: Annual report presents an analysis of cases involving deceptive advertising, sales, or enrollment practices.

Recommendation: Eliminate the report. The most recent report included only 35 cases nationwide - many of them minor infractions. All cases were promptly corrected.

| | |
|---|---|
| Report Title: | Relief from Administrative Error: Report on the Disposition of Cases Arising from Veterans Administration Errors |
| Required By: | Veterans Compensation and Relief Act of 1972; P.L. 92-328, sec. 201; 86 Stat. 396; 38 USC 210(c)(3)(B) |
| Nature of Report: | Annual report lists the cases in which relief was granted - totals, names, and summaries of administrative errors. |
| Recommendation: | Eliminate the report. The most recent report included only twelve (12) cases. |
| Report Title: | Quarterly Report on Accounts Receivables |
| Required By: | Senate Appropriations Committee Hearings, March 22-23, 1976 |

Nature of Report: Report summarizes overpayment data (i.e., establishment, dispositions, current balances) for a specific quarter. Also addresses any new actions taken by VA to control, monitor and improve collection status.

Recommendation: Eliminate the report.

Report Title: Veterans Benefits Under Current Education Programs

Required By: Request from Senate and House Veterans' Affairs Committees Annual monograph provides information and data on the use of educational benefits under the various programs administered by the Department of Veterans Benefits.

Recommendation: Retain the monograph.

Question 9. It is my understanding that the VA has pending at OMB a request for a supplemental FY 1984 appropriation for the Loan Guaranty Revolving Fund.

Question 9A. In what amount is the request transmitted to OMB?

Answer 9A. Our request transmitted to OMB was for $260 million.

Question 9B. When will that request be transmitted to the Congress?

Answer 9B. The request was transmitted to Congress on June 26, 1984.

Question 9C. Is there also such a request pending for FY 1985?

Answer 9C. Yes.

Question 9D. If so, in what amount?

Answer 9D. A final determination has not yet been made as to the amount required to sustain the Fund.

Question 10. In connection with the HUD-Independent Agencies Appropriations Act for FY 1985, the VA is required to submit a report by July 20, 1984, to the Appropriations Committee on the need for and amount of any appropriations necessary to insure the solvency of the Loan Guaranty Revolving Fund in fiscal years 1984 and 1985. In addition, the VA is to submit by September 1, 1984, a study on the need, if any, for restoration of staffing levels within the Loan Guaranty Service due to the fact that the changes that were the basis for a fiscal year 1985 136-FTEE proposed reduction in that Service apparently will not take effect as originally planned. Please provide copies of those reports for inclusion in the record of this hearing.

Answer 10. We will provide copies of those reports for inclusion in the record of this hearing as soon as they are available.

Question 11. I have become concerned about the way in which the VA makes decisions, in certain cases, to apportion veterans benefits pursuant to section 3107 of title 38, United States Code. Thus, I would appreciate your responding to the following questions regarding the VA's implementation of section 3107 in cases involving a veteran and and ex-spouse in which the ex-spouse asks the VA to apportion the veteran's compensation for the benefit of the veteran's minor children. (In responding, please identify and quote the provisions of any VA regulations and other directives on which your answer is based.)

Question 11A(i). In such a case, what consideration does the VA give to the court's decisions as to the veteran's right, as the absent parent, to visit with the children and as to whether the ex-spouse is preventing the veteran from exercising that right?

Answer 11A(i). None. As a general rule, VA would have no knowledge of a court decision setting forth the veteran's visitation rights. Even if the custodial parent's lack of compliance with the decision were brought to our attention, we have no authority under 38 U.S.C. § 3107 or VA regulations (found at 38 C.F.R. §§ 3.450-3.461) to deny, discontinue, or reduce an apportionment for this reason.

Question 11A(ii). More specifically, if the court had made the veteran's child-support obligation contingent upon the ex-spouse's allowing the veteran to exercise visitation rights and, based on a determination that the ex-spouse is interfering with the veteran's exercise of those rights, has terminated or suspended the veteran's support obligation, would the VA nevertheless continue the apportionment?

Answer 11A(ii). As stated above, we have no authority to discontinue an apportionment because a custodial parent is interfering with a non-custodial parent's visitation rights. Upon the custodial parent's proper application to the VA on behalf of the children, a demonstrated reduction in the total amount of money available for the minor children's support could be the basis for an increase in the apportionment.

Question IIA(iii)(I).

If yes--

Under what circumstances, if any, would the VA discontinue the apportionment in such a case?

Answer IIA(iii)(I). Apportionments once made can be discontinued for a variety of reasons, some of which are as follows: demonstrated lack of need for the apportionment; apportionee's request; apportionee reaches age of majority or marries or dies and no longer qualifies as a dependent; veteran's benefit is reduced to level at which apportionment is no longer feasible.

Question IIA(iii)(II).

If the VA gives no consideration to such a court order terminating or suspending the veteran's support obligation, does not this put the VA in the position of facilitating the ex-spouse's interference with the veteran's visitation rights by assuring the ex-spouse of a source of support payments without regard to whether the ex-spouse does or does not obey the court's order with respect to visitation rights?

Answer IIA(iii)(II). No. Benefits payable under an apportionment in the type of case you hypothesize are intended by Congress for the children's support. We should not be accused of "facilitating" the violation of a court order merely because we comply with section 3107 of title 38 and its implementing regulations.

Question IIB(i).

Where there is a valid court order for child support payments, in what ways does the VA communicate or otherwise interact with the court so as to ensure, where necessary or appropriate from the standpoint of fairness to the veteran, that the veteran is credited with any sums paid, through apportionment, for the support of the children?

Answer IIB(i). There is no need for the VA to "interact" with the court in such cases. The veteran has available to him or her documentary evidence of the amounts to be credited. Should the court inquire, we would, of course, furnish any necessary information.

Question IIB(ii).

Since the veteran's support obligation is clearly a matter of State law, what action does the VA take to ensure that it does not apportion for child support a level of payments in excess of the support obligation that the court has established?

Answer IIB(ii). While it is clear that family support obligations are generally matters of State law, issues involving apportionments of title 38 benefits are Federal, not State, issues. We therefore would not defer to a State court ruling that any particular amount of financial support for a child is the optimal level. Nevertheless, the amount of child support awarded by a State court and actually paid by the veteran would be considered as a factor in determining whether an apportionment should be made or continued and its amount.

Question IIC(i).

In evaluating the appropriate level of apportionment of compensation in a case in which the veteran has remarried, what relevance is attached to the amount of the veteran's current spouse's income?

Answer IIC(i). None, unless the veteran contests the amount of an apportionment on the ground that he or she has new family obligations. In this type of case, it would be necessary to take into consideration the extent to which the apportionment would work a hardship on the veteran's ability to provide support for the new family.

Question IIC(ii).

If any relevance is attached, please provide your justification for so doing.

Answer IIC(ii). Please refer to our answer above.

Question 11D.

What is the VA's position on the applicability to apportionment cases of the provisions to title 38, United States Code, restricting the amount a veteran can pay for representation (section 3404) and precluding judicial review (section 211(a))? To the extent that it is contended that either or both apply to such cases (which, by their nature, do not involve any claim for VA benefits but rather a contest between two parties on how existing benefits should be divided), please provide copies of any opinions from the VA's General Counsel supporting such position.

Answer 11D. Both section 211(a) and section 3404 of title 38, United States Code, apply to apportionment cases. Section 211(a) precludes judicial review of VA decisions of law or fact under laws administered by this Agency providing benefits to veterans, their dependents, and their survivors (with exceptions not here pertinent). Section 3107 of title 38 is such a law, and apportionment decisions in individual cases are accordingly not subject to judicial review. Section 3404, relating in part to attorneys' fees limitations, pertains to "claims." A claim is defined in 38 C.F.R. § 3.1(p) as a written communication requesting a determination of entitlement or evidencing a belief in entitlement to a benefit. We see no basis for the proposition that apportionment requests should not be considered claims. The fact that an apportionee's entitlement is derivative should not deprive his or her written request of the status "claim." Under section 3001 of title 38, the filing of a claim is a condition of benefits payments. If apportionment applications were not claims, this condition could not be met. As claimants, apportionees and prospective apportionees are entitled to procedural protections under 38 C.F.R. § 3.103 and to Board of Veterans Appeals review under 38 C.F.R. Part 19, *see especially* §§ 19.2, 19.143-19.149, and 19.167.

We strongly disagree with your characterization of apportionment cases as contests "between two parties on how existing benefits should be divided." Most apportionment cases do not occasion any "contest."

Attached are copies of A.D.V.A 582, August 31, 1944; Op. G.C. 11-59, February 2, 1959; and Op. G.C. 4-79, October 2, 1978, all of which support the view taken in this response.

Question 12A. Regarding the provisions of S. 2759, which would establish a period of trial work for service-connected disabled veterans with total disability ratings based on individual unemployability ("IU"), you make a number of statements about which I have questions, as follows:

> "A trial work concept is built into our system." Please explain this statement and identify and quote the VA regulations and other directives which establish this concept in the VA as to IU-rated veterans.

Answer 12A. We regard our system as having a built-in trial work concept because we do not penalize or discourage an IU-rated veteran's effort to regain employability. As you know, an IU rating is granted only after an extensive evaluation of the veteran's inability to secure and maintain substantially gainful employment (SGE), by reason of his or her service-connected disability.

We define SGE as the type of employment engaged in by non-disabled persons in the veteran's community for the purpose of earning a living. See M21-1, para. 50.46 b.(8). Marginal, sheltered, and try-out employment are not within the scope of this definition. We do not monitor these cases on a month-to-month basis, and there is no regulatory bar to the veteran's attempt at trial work. Should it appear the IU-rated veteran is engaged in SGE, reduction of compensation to the schedular level is not automatic. Section 3.343(c) of title 38, Code of Federal Regulations, specifically enjoins caution when rating action is proposed: [A]ctual employability [must be] established by clear and convincing evidence." If rating action is taken, the veteran has 60 days from the date of the notice to request reconsideration, see 38 C.F.R. 3.105. Finally, even if the IU rating is discontinued, there is no barrier to the veteran's reopening of his or her claim because of inability to maintain employability.

Question 12B(i).

"We strongly encourage all veterans in receipt of compensation to undertake vocational rehabilitation."

Please provide data indicating the rate at which veterans with IU ratings have participated in vocational rehabilitation during fiscal years 1981, 1982, and 1983.

Answer 12B(i).

Veterans with individual unemployability ratings who have participated in vocational rehabilitation programs from

October 1, 1983 through June 30, 1984, number 267. We began maintaining this data beginning in fiscal year 1984 and do not have comparable information for earlier fiscal years.

Question 12B(ii).

Please identify and quote the regulations and other directives requiring such encouragement.

Answer 12B(ii).

The policies and procedures followed in the outreach effort to service-disabled veterans are contained in DVB Circular 28-82-9, Restructuring Chapter 31 Motivation Contacts, and M21-1, par. 23.10, Change 352.

Under these policies, outreach includes an ongoing program designed to reach each veteran awarded an initial or increased rating or advised of a change in disability evaluation. It is supplemented by special efforts to certain groups such as the outreach effort for Vietnam-era veterans described in DVB Circular 28-82-29.

The ongoing outreach program provides for information and applications to be included with the notice of the compensation award. A 30 day control is set up. Staff of the Vocational Rehabilitation and Counseling Division at the regional office are required to follow up each case in which the veteran does not apply for vocational rehabilitation within 30 days.

A system of priorities has been established governing follow-up procedures. The first priority is service-disabled veterans with disability ratings of fifty percent or more. Instructions state:" An intensive, sustained effort must be made to establish motivational contact with veterans in this group."

We believe this ongoing effort in behalf of veterans with new, increased, or changed disability ratings, supplemented by special efforts for Vietnam-era veterans, constitutes strong encouragement to participate in the vocational rehabilitation program.

Question 12B(iii). Please identify and quote the regulations requiring such regulations.

Answer 12B(iii). Please refer to our answer above.

Question 12C(i)."We do not terminate the IU rating if the veteran engages in marginal employment or 'trial work,' and we do not immediately reduce benefits when the veteran obtains full employment."

Please identify and quote the regulations and other directives that preclude the termination of IU ratings for marginal employment.

Answer 12C(i). We have cited 38 C.F.R. § 3.43(c) above. "When evidence of substantially gainful employment is indicated but not clearly shown, the case will be referred to the authorization activity to develop for individual unemployability . . . " M 21-1. par. 52.12(1). "Marginal employment must be determined on an individual basis. All factors such as number of hours worked, prior work history, earnings, time lost from work due to service-connected condition(s) are to be considered. No one factor is necessarily determinative." M21-1, par. 50.46 b(9).

Question 12C(ii).

Please identify and quote the regulations and other directives that preclude the termination of IU rates [sic] for trial work.

Answer 12C(ii).

Please refer to our answers above.

Question 12C(iii).

Please identify and quote the regulations and other directives that preclude the immediate reduction of benefits when the veteran obtains full employment.

Answer 12C(iii).

Please refer to our answers above.

Question 12C(iv).

Your use of the terms "trial work" and "full employment" implies that you may not consider trial work as even being in the form of full employment. Please state and explain the VA's position as to whether (under the regulations or other directives identified in your resposes to parts (c)(ii) and (iii) of the question) trial work can consist of full employment.

Answer 12C(iv).

Neither term is susceptible of precise definition. A person pursuing a career on a part-time basis may be, so far as that person is concerned, fully employed; a disabled person may be employed full-time in a sheltered environment. We consider that "trial work" in the case of IU-rated veterans could be either part-time or full-time, depending on the individual circumstances. Some veterans might prefer to attempt only part-time work in order to test their abilities. Others may try full-time work. If either the part-time or full-time employment was sustained, (and otherwise qualified as SGE), the veteran's status as "unemployable" would obviously be called into question. On the other hand, if the part-time or full-time work had to be discontinued because of the veteran's disability, the period of employment would clearly have been in the nature of a trial work period.

Question 12D.

"Any disincentive to regained employability lies in the nature of the IU veteran's service-connected disability rather than the fear of loss of benefits." Please provide objective data in support of this statement.

Answer 12D. Even though we do not have "objective data" that support our statement, we reject the notion that IU-rated veterans, considered as a group, are able to work but unwilling to do so. This rating is available only if the disability precludes employment. The disability must be physically limiting; neuropsychiatric disabilities that impair employability are treated elsewhere in the Rating Schedule. Through their own unaided efforts or with the help of others, some IU-rated veterans regain employability. Others do not. We do not believe the latter group remain "unemployable" by choice.

Question 12E(i).

"Finally, Mr. Chairman, I would note that, based on our review of IU cases, we believe a large number of our IU veterans are protected against loss of the rating by section 110 of title 38. Of the remainder, we believe most are veterans in their middle years or beyond for whom the possibility of even "trial work" is remote. While we cannot estimate the impact of S. 2759, if enacted, with any certainty, one can validly question whether it would have a significant effect in encouraging IU veterans toward restored employability."

Do you believe that, as a technical matter, S. 2759 should be amended to provide an exception for veterans with protected IU rating?

Answer 12E(i). No, there could be no reason to do so. A protected evaluation would not be affected by the veteran's engaging in "trial work" because section 110 deprives us of the authority to reduce the evaluation notwithstanding the veteran's regained employability.

Question 12E(ii).

How many veterans with IU ratings do not have protected ratings and are under age 55?

Answer 12E(ii).

We do not have statistics regarding the number of veterans under age 55 whose unemployability evaluations are not protected.

Question 12E(iii).

What is your basis for asserting that for veterans with IU ratings who are "in their middle years or beyond . . . the possibility of even trial work is remote"?

Answer 12E(iii).

The IU rating is not assigned or continued unless the service-connected evaluation is 60 percent or more. In our experience, veterans in the older age groups who have dropped out of the work force by reason of relatively severe disability are unlikely to undertake retraining or trial work. We do not believe there are many instances in which IU-rated veterans over age 55 could return to competitive employment without participation in a transitional process, such as a vocational rehabilitation program, to overcome or mitigate the effects of long-continued unemployability.

Question 13. As I have indicated, the provisions of S. 2759 are patterned after the trial-work provisions of the Social Security Act, especially the disability insurance (DI) program. Under that program, if an individual has completed nine months of trial work and continuously thereafter "engages in substantial gainful activity" (SGA), his or her DI benefits are not terminated for 3 months thereafter and, during the next 12 months, if his or her earnings fall below the SGA level (generally $300), his or her DI benefits are automatically reinstated. It may be advisable, in conjunction with the consideration of legislation along the lines of S. 2759, to consider a provision that would produce a similar result in the case of a service-connected disabled veteran who has a 100-percent rating based on individual unemployability. Under such a provision, a veteran who has completed a period of trial work, who thereafter continues to work, and whose 100-percent disability rating is, as a result, terminated, would be reinstated if his or her earnings were to fall below a certain level during the 12-month period after the month in which his or her benefits were reduced. Attached is a provision designed to accomplish this result. Please provide your comments on this concept as well as on the draft provision.

Answer 13. We will provide our comments on this concept and the draft provision in our Agency report on S. 2759.

Question 14. I have long been concerned that, under current law, non-service-connected disabled veterans who could benefit from vocational rehabilitation and return to work are discouraged from doing so. Thus, I am planning to introduce legislation for the purpose of removing disincentives in the VA pension program that appear to deter pensioners from entering into vocational rehabilitation or similar training programs and, thereafter, seeking to obtain and maintain employment. Attached is a provision designed to achieve this goal. Under this legislation, a period of trial work, based on the period of trial work for supplemental security income (SSI) recipients, would be established for veteran-pensioners. This draft legislation provides for a period of trial work consisting of 9 months, not necessarily consecutive, and a period of 15 consecutive months immediately following the ninth month of trial work. Throughout this period of 24 months, the fact that the veteran has worked may not be taken into account in determining whether the veteran is permanently and totally disabled. This approach is designed to take into account the fact that the SSI trial work period of 9 months is followed by a 15-month period in which the recipient is restored to the SSI roles if his other earnings fall below the SGA level ($300) during any month, as well as the fact that the SSI legislation, but not the VA pension law, provides for a substantial part of the recipient's earned income to be disregarded in computing the individual's monthly benefits. In addition, under the amendment, the veteran would not lose any eligibility or priority for VA health care during the 15-month period following the 9 months of trial work. Also, the VA health-care eligibility of a veteran pensioner who enters into a State or VA vocational rehabilitation program would be protected (unless the veteran's unearned income causes the termination of his or her pension) until the end of the year following the later of the veteran's termination of vocational rehabilitation or the termination of the veteran's pension. Please comment on this concept as well as on the draft legislation.

Answer 14. In a separate letter we will supply comments on the concept you have outlined and the draft proposal, as embodied in S. 2736, which the Committee ordered reported on July 25, 1984. In this connection, we provided extensive comments on H.R. 5442, 98th Congress, a bill that would make payment of pension to certain veterans under age 50 conditional upon participation in programs of vocational rehabilitation. Attached is our report on H.R. 5442.

ADMINISTRATOR'S DECISION, VETERANS ADMINISTRATION, NO. 582.

August 31, 1944.

bject: INTERPRETATION OF VETERANS REGULATION NO. 2 (a), PART I, PARAGRAPH V (2), AS AMENDED BY SECTION 12, PUBLIC NO. 144, 78TH CONGRESS.

QUESTION PRESENTED: Does a check received by an apportionee, not negotiated ring her lifetime, become an asset of her estate under Veterans Regulation No. (a), Part I, paragraph V (2), as amended by section 12, Public No. 144, 78th gress?

FACTS: A disability pension award was apportioned on behalf of the veteran's fe at the rate of $34.00 monthly. She died January 14, 1944. Thereafter a claim made by the administrator of her estate for the proceeds of a check dated Dember 31, 1943, received by her during her lifetime but not negotiated prior to r death.

COMMENT: Veterans Regulation No. 2 (a), Part I, paragraph V (2), provides:

> "A check received by a payee in payment of pension, compensation, or retirement pay shall, in the event of the death of the payee on or after the last day of the period covered by such check, become an asset of the estate of the deceased payee."

There is no question but that the wife, to whom an apportionment of the efits had been authorized, and in whose favor a check for such apportionment is en, is the payee named in such check. The fact also is that while the wife, by tue of receipt of apportioned benefits of pension, is not a pensioner (Administer's Decision No. 212) the check in such cases is in payment of a pension award ed upon the service of the husband.

HELD: Accordingly, a check received by an apportionee, not negotiated during lifetime, is an asset of the estate of the deceased apportionee under paragraph ), Part I, Veterans Regulation No. 2 (a), as amended by section 12, Public No. , 78th Congress. (Opinion of the Solicitor, Veterans Administration, dated August 1944, approved by the Administrator of Veterans Affairs August 8, 1944, C-1,639,243.)

The foregoing decision is hereby promulgated for observance by all officers employees of the Veterans Administration.

Frank T. Hines

FRANK T. HINES,
Administrator of Veterans Affairs.

W[illegible], Harriet S.
C-1639243

## GENERAL COUNSEL'S OPINION, VETERANS ADMINISTRATION - OP. G. C. 11-59

Chief Benefits Director February 2, 1959

General Counsel

C-4 412 323

1. This has reference to your memorandum in the subject case which asks "whether the wife of an incompetent veteran who knowingly presented to the VA a materially false statement pertaining to her income in connection with her request for a special apportionment of the veteran's compensation under the provisions of VAR 1315 has submitted 'a false or fraudulent . . . statement . . . concerning any claim for benefits' within the meaning of Section 15, Public No. 2, 73d Congress, as amended. . . ."

2. The file shows that the veteran was hospitalized and in receipt of compensation for a mental condition rated as 100% disabling. His wife was in receipt of an apportionment of $104 per month. In 1953, she requested an increase because of hardship under the provisions of VA Regulation 1315, 38 CFR 3.315, indicating that her income consisted solely of the apportionment she was already receiving. A special apportionment of $176.75 per month was then approved for her and their child. Her statement was found to be fraudulent with respect to her income, however, by the Central Committee (now Board) on Waivers and Forfeitures in a decision of November 23, 1956, and her rights were declared forfeit. Your request for opinion is taken to refer to whether the Committee had jurisdiction.

3. Section 15, Public No. 2, 73d Congress, 38 USC 715, provided as follows:

> "Any person who shall knowingly make or cause to be made, or conspire, combine, aid, or assist in, agree to, arrange for, or in any wise procure the making or presentation of a false or fraudulent affidavit, declaration, certificate, statement, voucher, or paper, or writing purporting to be such, concerning any claim for benefits under this title, shall forfeit all rights, claims, and benefits under this title, and, in addition to any and all other penalties imposed by law, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than $1,000 or imprisonment for not more than one year, or both."

The foregoing has been restated by section 1103(a), Public Law 85-56, and codified by Public Law 85-857 as 38 USC 3503. In these later enactments, the language is broadened to include a claim under any of the laws administered by the VA, except insurance. There is no change in the statutory language for purpose of the present question.

4. One of the service organizations is of the view that there has been no fraud upon the Government, and therefore the statement of the wife which was found to be false cannot be the basis for a forfeiture. It argues that the compensation was the veteran's, and therefore any fraud was between the veteran and his wife. It points out that the Department of Justice has refused to prosecute, and the Government has suffered no loss. Hence your question as to whether the claim of the wife in these circumstances comes within the quoted statutory provisions.

5. The body of the letter from the Department of Justice, to which the service organization refers, reads as follows:

> "The above entitled matter which you referred to this office on December 15, 1955 has been reviewed, and it has been decided that prosecution be declined.
>
> "It is my understanding that the wife of the veteran receives a proportionate sum of the veteran's pension; and, that in this case, the wife by application or request received an additional apportionment in the sum of $69.35. This additional payment is made out of the moneys payable to the veteran and the Government has, therefore, sustained no loss as a result of the subject's false statements.

> "In addition, I have been advised that this matter will be submitted to the Committee on Waivers and Forfeitures and that at present payments are no longer made to her.
>
> "In view of these circumstances, it has been decided that there should be no prosecution in this case."

6. It will be observed that one of the reasons given by the U. S. Attorney for declining to prosecute was the anticipated referral of the case to the then Committee on Waivers and Forfeitures. The Department of Justice evidently regarded its action as not affecting the jurisdiction of the VA to declare a forfeiture.

7. The question of whether a forfeiture could be declared administratively in a case where prosecution was declined or was unsuccessful was considered by the former Veterans Bureau under statutory language like that presently under consideration. In the case of C-1 241 495, 27 GC 151, decided January 15, 1924, the question related to paragraph 2 of section 14 of the War Risk Insurance Act, Public Law 193, 63d Congress, enacted August 9, 1921. It was held that a decision not to prosecute did not affect jurisdiction of the then Veterans Bureau to declare a forfeiture. The same question arose under nearly identical language of section 504 of the World War Veterans Act, Public Law 242, 68th Congress, June 7, 1924, in the case of C-1 008 047, decided September 10, 1928, and a like conclusion was reached. The matter was later referred to the Attorney General, and in an opinion of August 11, 1932, 37 Atty Gen 23, he said:

> "Section 504 of the World War Veterans Act (Act of June 7, 1924, c. 320, 43 Stat. 629, as amended by the Act of March 4, 1925, c. 553, Sec. 19, 43 Stat. 1312; U.S.C., Title 38, sec. 555) provides as follows:
>
> > 'Any person who shall knowingly make or cause to be made, or conspire, combine, aid, or assist in, agree to, arrange for, or in any wise procure the making or presentation of a false or fraudulent affidavit, declaration, certificate, statement, voucher, or paper, or writing purporting to be such, concerning any claim or the approval of any claim for compensation or maintenance and support allowance, or the payment of any money, for himself or for any other person, under Titles II or IV hereof, shall forfeit all rights, claims, and benefits under said titles, and, in addition to any and all other penalties imposed by law, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than $1,000 or imprisonment for not more than one year, or by both such fine and imprisonment, for each such offense.'
>
> "The plain purpose of this statute, as indicated by its language, is to impose a penalty for the commission of the offense described. The penalty includes not only the forfeiture of rights under Titles II and IV of the World War Veterans Act, but also, upon conviction of the offense, punishment by fine or imprisonment. By the express provisions of the statute, however, forfeiture, unlike fine and imprisonment, is not dependent upon conviction. The statute itself declares the forfeiture, leaving for administrative determination whether the particular veteran has committed the proscribed acts and is thus subject to the forfeiture imposed by the statute.
>
> * * * * * *
>
> "Considering the plain provisions of section 504 in the light of the consistent administrative construction, it is my opinion that the forfeiture imposed by section 504, when determined by the administrative officer charged with its enforcement, is not affected by the fact that a prosecution to enforce the other penalties imposed by section 504 is not instituted."

The provisions of law considered by the Veterans Bureau and the Attorney General are the same, for purpose of the question, as those subsequently enacted and here applicable. There is no doubt in the light of the above that the action of the Department of Justice does not affect the jurisdiction of the VA to declare a forfeiture administratively.

8. It is contended further, however, that the Government sustained no loss. This contention appears to be correct in a pecuniary sense, inasmuch as the moneys paid were taken from the compensation of the veteran. But loss or absence of loss is not significant under the plain language of the Act. Section 15 of Public Law 2 confers forfeiture jurisdiction as to "any person who shall knowingly make . . . a false . . . statement . . . concerning any claim for benefits. . . ." This language does not require any loss. The mere presentation of a materially false statement in support of a claim is sufficient to allow forfeiture. This has been the rule under Public Law 2 and under predecessor laws, without the necessity of legal opinion.

9. The matter of propriety of forfeiture in the absence of pecuniary loss arose indirectly under section 504 of the World War Veterans Act in the case of C-1 594 634, 16 Sol 637, decided October 29, 1934. In that case, a false statement was received respecting the physical condition of the veteran, but he was shown otherwise to be permanently and totally disabled. The evidence failed to show that he knew of the false statement. On these facts, a proposed forfeiture was rejected. A reason given implied that the absence of pecuniary loss to the Government was a factor. This office concurred in the finding of non-forfeiture, but indicated the reason was too broad. It said:

> ". . . There need be no . . . payment of money not otherwise allowable. This is illustrated by the cases in which an apportionment is attempted to be defeated by the submission of false evidence. There is involved no additional liability whatsoever on the part of the Government but such a case would be clearly within the terms of Section 504, supra, and the Committee has considered the question of forfeiture in such cases. . . ."

In Administrator's Decision No. 908 infra, where there was an absence of pecuniary loss to the Government, it was regarded as not significant.

10. It is well settled that neither a refusal to prosecute or convict, nor an absence of pecuniary loss, thwarts jurisdiction of the VA to declare a forfeiture. There remains the contention that any fraud was not upon the Government, but between the veteran and his wife, who had no indepentent right to the moneys which were derived from the veteran's compensation.

11. If there were fraud upon the veteran resulting in a monetary loss by him alone, it would not follow automatically that there is no fraud upon the Government. In the event of a false representation by a spouse to the VA, the falsity would not be affected by the circumstance that the misrepresentation was to the monetary disadvantage of the other spouse only. Regardless of fraud or lack of fraud upon the veteran, the forfeiture provisions relate to a false statement in a claim for benefits — any claim for benefits — and the Government has a governmental if not a pecuniary interest in the veracity of representations made to it in connection therewith.

12. Even so, it seems plausible to argue that a false statement to an agency such as the VA is not its concern if the only purpose of the false statement is to cause moneys to pass from one spouse to the other. The situation here is not that simple, however. The VA had the custody of the moneys, and under the provisions of section 3, Public Law 866, 76th Congress (now codified as 38 USC 3107(a) and (b)), and VA Regulation 1315, payment was in its discretion. It is true that the moneys apportioned and paid were derived from the compensation of the veteran, but under the statutory authorization for apportionment it is for the VA and not the veteran to decide whether and how apportionment should be accomplished. If the wife of the veteran had died after receipt of a check representing an apportionment, the value thereof would have been payable to her estate, not to the veteran. —Administrator's Decision No. 582.

13. The situation is not unlike that considered in Administrator's Decision No. 908. In that case, bills for purported treatment of three veterans were submitted for payment to the Philippine Veterans Board. The Board asked whether it would be reimbursed by the VA. Public Law 865, 80th Congress, then newly enacted, allowed the VA to make reimbursement for medical treatment properly rendered eligible veterans. In the decision, it was said:

> ". . . The fraudulent claim for reimbursement, participated in by the veterans . . . clearly concerned a claim under said Public Law 2, 73d Congress . . . The situation is not materially different by reason of the interposition of the Philippine Government as a link in the chain of payment. An almost identical situation could arise in this country; say a veteran is notified of his eligibility for hospital or outpatient care and same is authorized, which authorization he and a fee-basis physician utilize to make a fraudulent claim to the local State Physicians Service — the Service to pay same and secure reimbursement from the Veterans' Administration. The fraud would be in connection with or concerning the veteran's claim as well as the fraudulent claim for services not rendered; and the fact that the fraud reaches the Veterans' Administration through an intermediary does not place the act beyond the scope of section 15, Public Law 2, 73d Congress. . . ."

14. For the reasons given, this office is of the opinion that a claim for apportionment by a wife comes within the language "any claim for benefits" as used in section 15 of Public Law 2, 73d Congress, and successor Acts relating to forfeiture, and a statement by her in support of such a claim, if found to be false or fraudulent, may constitute "a false or fraudulent . . . statement . . . concerning any claim for benefits", as used in such Acts.

* * * * * *

GUY H. BIRDSALL

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* Balance of opinion related to procedure for disposal of the particular case and is not for general application.

## GENERAL COUNSEL'S OPINION, VETERANS ADMINISTRATION OP. G.C. 4-79

**October 2, 1978 (Opinion date)**

**January 30, 1979 (Publication date)**

**Subject: ENTITLEMENT TO ADDITIONAL AMOUNTS OF DISABILITY COMPENSATION OR PENSION BY REASON OF DEPENDENCY**

**QUESTION PRESENTED:** What is the nature of the additional amounts of disability compensation or pension payable to an individual because of his or her having one or more children?

**COMMENTS:** One need not look beyond the authorizing statutory language to justify the Veterans Administration's treatment of the additional amounts, in the absence of any apportionment, as increased rates to which the payees and not the children are entitled.

Except where such awards have been apportioned under 38 U.S.C. § 3107, the Veterans Administration does not authorize the payment of compensation or pension to anyone but the statutorily listed payees or their fiduciaries. Under the facts of the case which prompted this inquiry, the Social Security Administration considered the entire VA payment to the surviving spouse for herself and one child in her custody as total income of the surviving spouse, thereby making her ineligible for Supplemental Security Income. The Veterans Administration, likewise, would not have recognized any entitlement of the daughter to the additional amount of death pension payable to her mother by reason of the daughter's existence. That is because subsection 541(a) of title 38 authorizes payment only "to the surviving spouse" of each qualified veteran, and subsection (c), which contains the rates for a surviving spouse and one child, also provides for payment only "to the surviving spouse."

The next code section (section 542) permits payment to surviving children, but only where "there is no surviving spouse entitled to pension under section 541." This further indicates that section 541 vests entitlement only in surviving spouses.

Additional evidence of congressional intent to vest entitlement to the entire portion of a death pension award, absent an apportionment, in the surviving spouse is to be found in the language of the pertinent apportionment provisions of title 38. Subsection 3107(b) permits apportionment of the pension "otherwise payable *to the widow*" (emphasis added) in cases in which the deceased veteran's children are not in the custody of the surviving spouse. If it had been intended that the children's entitlement to a part of the award would lie independently of an apportionment, there would be no need for this administrative procedure.

The surviving spouse took the denial of SSI to the U.S. District Court. Ruling in her favor, the court relied on the regulatory language as "arguably" establishing that the additional amount of death pension payable when a deceased veteran's child exists is the "child's portion" and "a benefit for the child." It relied on the language of 38 C.F.R. § 3.450(c) (not subparagraph 3.450(a)(2)(c) as cited by the court) referring to "the widow's share" as evidence that there are widows' and children's shares, but in actuality these "shares" exist only where awards have been apportioned. Much was also made of the language of that subsection and subsection (c) (not (a)(2)(c)), respectively, concerning amounts "payable for any child or children" and "for such dependents." However, as discussed above, the fact that additional amounts are payable *to the surviving spouse* if there are children does not create entitlement in the children, absent an apportionment.

Another point not considered by the court is that death pension is a needs-based program, and under section 541 of title 38 the financial needs test for entitlement takes into account the income of the spouse only. Any income of the veteran's children is irrelevant, a further indicator that entitlement lies only in the spouse and not jointly with the children. However, under section 542, where entitlement becomes vested in a child or children, their incomes are taken into consideration.

It perhaps should be considered pertinent as well that the additional amounts of death pension payable to a surviving spouse when there are children are not, strictly speaking, dependency allowances. The additional amounts are payable whether or not the offspring are financially dependent upon the parent, as financial dependency is not a requirement for the status of "child" (38 U.S.C. § 101(4)).

A careful analysis of the statutory framework of the Veterans Administration disability compensation, dependency and indemnity compensation, and disability pension programs will also compel the conclusion that additional amounts of these benefits which are payable by reason of the recipients having spouses or children do not vest entitlement in such spouses or children. Unless the benefits payments have been apportioned, entitlement thereto lies only in the payees, and the Veterans Administration will not honor requests for payment of any amount to another individual.

This explanation has been limited to the issue of benefits *entitlement*. The question of whose income the additional amounts should be considered to be, which may involve additional considerations, is not a determination required of this agency in the administration of its programs. Obviously, as discussed above, the entitlement of the surviving spouse to the additional amount of death pension payable for having dependents is readily severable under the apportionment provisions. This demonstrates a contemplation that the additional amounts will actually inure to the benefit of the children. It may be considered germane as well that in computing a surviving spouse's income for purposes of entitlement to death pension the VA disregards any additional amounts of social security payable to the spouse by reason of there being children.

**HELD:** Except where such benefits have been apportioned, because additional amounts of disability compensation or pension are payable to veterans by reason of having dependents does not mean that any entitlement thereto is vested in such dependents, entitlement lying only in the veterans themselves. The same holds true for additonal death pension and dependency and indemnity compensation payable to surviving spouses with children, no entitlement being vested in the children.

GUY H. McMICHAEL III
General Counsel

*NOTE: This opinion was released in the form of a letter to the Chief, Supplemental Security Income Branch, Department of Health, Education and Welfare, Office of the Secretary, Baltimore, MD on October 2, 1978.*

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MAY 22 1984

Honorable G. V. (Sonny) Montgomery
Chairman, Committee on Veterans' Affairs
House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

I am pleased to respond to your request for the views of the Veterans Administration (VA) on H.R. 5442, 98th Congress, a bill that would make payment of pension to certain otherwise eligible veterans under age 50 conditional upon participation in programs of vocational rehabilitation.

While we support the concept of assisting veterans and reducing the numbers on our pension rolls, we cannot support the bill as introduced. However, if the bill were to be amended as detailed in this report and enacted as a 5-year pilot program, the VA would support its enactment.

H.R. 5442 would amend chapter 15 of title 38, United States Code, to require the Administrator to determine, in the case of each new pension applicant under age 50, whether achievement of a vocational goal is reasonably feasible. If the achievement of a vocational goal is determined feasible, the veteran would be required to enter into a vocational training program before payment of pension could begin. If achievement of this goal is determined not feasible, payment of pension would begin immediately and no training would be required. In either case, the effective date of the veteran's award of pension would be unaffected.

Each training program would be conducted as a vocational rehabilitation program under chapter 31 of title 38. Participants would be eligible to receive any of the services provided under chapter 31, except for subsistence allowances or related assistance, advances from the revolving fund, and payment of employment adjustment allowances. The maximum duration of a training program would be 48 months.

To encourage continued participation in a training program, H.R. 5442 provides that, if at any time a veteran voluntarily withdraws from training (or otherwise fails to complete the program for reasons within the veteran's control) without the Administrator's approval, payment of pension would be suspended until training is resumed.

H.R. 5442 would also authorize continued eligibility for drugs or medicine under section 612(h) of title 38, for certain veterans who are permanently housebound or are in need of regular aid and attendance, and whose pension entitlement (after completion of training) may be terminated solely because income limitations are exceeded. This continued eligibility would be limited to 1 year following termination of pension entitlement.

As discussed in more detail below, we believe that enactment of H.R. 5442 as introduced, without an opportunity to study its potential impact, including the characteristics of the veteran population to which it is targeted, i.e., those veterans under age 50 entitled to pension by virtue of total and permanent disability, would be premature. Additionally, there are numerous aspects of the measure as introduced which should be modified to improve its effectiveness.

Currently available statistics indicate that younger pensioners are, to a relatively high degree, disabled by psychiatric/neurological disabilities. Such disabilities far outweigh other types of disabilities for those already on the pension rolls, and we have no reason to believe that those who will be added to the rolls in the future will differ significantly. In this regard, we would point out that it has been our experience, in evaluating veterans for chapter 31 purposes, that vocational rehabilitation is more frequently found not reasonably feasible for those with serious neuropsychiatric conditions than for those having severe physical disabilities.

In any case, there still are many things about these younger pensioners which are not ascertainable from currently available data. We cannot determine at what levels they are functioning physically or mentally, and we have no information regarding their educational levels. As a result, we are unable to determine the impact that the program would have on the Agency in terms of cost of training and personnel requirements.

Ideally, before enactment of the program, a study should be undertaken to provide a more accurate profile of the potentially eligible veterans. Information already available in the claims folders of new pension recipients could be reviewed in order to more accurately forecast the types and duration of training that would be needed. Additionally, an analysis should be made of the work history and educational levels, military history, and duration and severity of the disabilities of the targeted veteran population. This analysis would provide a better picture of the numbers of veterans for whom training would be feasible, and might also point out how the "feasibility" in this group might differ from the service-disabled veteran population. Such a study, in our view, is a reasonable prerequisite to any legislation creating a permanent program of this nature.

Even absent the benefit of such a profile, we would suggest that there are other factors which indicate that the age range of the targeted veteran population for whom vocational training is being proposed should be lowered. The vocational training authorized by H.R. 5442, and the projected governmental expenditures therefor, would only be justified if the rehabilitated person were able to pursue the occupation for which retrained for a number of years. Further, we believe that it would be in the veteran's interest that such employment extend for a period of at least 10 years to achieve a more economically favorable position for eventual retirement based on age.

Since age 62 would be the most likely retirement age for persons already disabled, we believe it would be necessary, in order to ensure 10 years of employment, for the veteran to enter the program no later than age 46. Establishing the targeted age for new pension applicants at age 46 or less would allow sufficient time for a veteran to be fully evaluated; to pursue a training program, with allowance made for loss of training time due to medical reasons; and to receive up to 18 months of employment assistance. Thus, persons who begin vocational training no later than age 46 could receive the full advantage of the program and be in a position to obtain and maintain reasonably stable employment.

We note that the bill speaks to a "program of vocational training" but does not specify the scope of training embraced by this term. Traditionally, the VA, in its administration of educational benefit programs, has considered a vocational training program to be a non-college degree course which qualifies a trainee for a vocational, as opposed to an educational or professional, objective. We note, however, that the Congress recently expanded this approach for purposes of the chapter 34 targeted delimiting date extension provision to specifically include an associate degree program, if the program is predominantly vocational in nature. Since the concern of H.R. 5442, like that of the targeted delimiting date extension, is to promote veterans' attainment of a reasonably stable employment situation, we believe that the instant measure should define the nature of training authorized in the same manner.

It is likely that veterans who qualify for pension benefits already have some training background and employment experience. In our view, these individuals will require comprehensive vocational evaluation of their special circumstances, and will benefit most, in terms of employability, from job-focused vocational training (including associate degree-level training which is predominantly vocational in content). Such training would enable eligible veterans to qualify for employment and enter the job market within a reasonably short period of time.

Our experience indicates that, for the most part, this goal-oriented, job-specific training can be accomplished in 18 to 24 months. Therefore, in lieu of the bill's provision for a 48-month training period, we recommend that each program of training be limited to a period of 24 months, with provision for granting an extension if the Administrator determines that additional training is necessary to accomplish the purposes of a rehabilitation program for the veteran concerned.

H.R. 5442 provides that, in determining feasibility for achieving a vocational goal, applicants would be evaluated by VA employees trained in vocational counseling. We believe this provision should be clarified and expanded to provide that evaluations will be conducted in the same manner as under chapter 31, including utilization of a period of extended evaluation, and other evaluation and diagnostic services authorized under that chapter.

Payment of pension under H.R. 5442 apparently would not begin until a veteran actually enters a program of training. We are concerned that this does not take into account the possibility of delays occurring in the initial feasibility determination, nor does it reflect consideration that the process of designing a specific training program and enrolling the veteran therein could be quite lengthy in certain cases. Consequently, we recommend that the bill be amended to authorize pension payments during the evaluation period. Should a veteran for whom training is determined feasible subsequently fail to enter a training program, pension payments could be suspended at that time.

We have several concerns with regard to subsection (d)(3) of the bill. In the first instance, as a technical matter, we believe the reference to section 1501(a) should properly be to section 1504(a) of title 38. More importantly, however, we are concerned that this provision, with certain limited exceptions, authorizes a trainee to receive any of the assistance and services described in section 1504(a).

We believe that the assistance and services authorized by reference to section 1504(a) may be over inclusive. For example, this would include a work-study allowance under section 1504(a)(4); automotive adaptive equipment under section 1504(a)(10); and services to achieve maximum independence in daily living under section 1504(a)(15). Such provisions were designed to achieve the broad purposes of the chapter 31 training and rehabilitation program for service-disabled veterans. In our view, providing the same assistance and services here would be neither necessary, appropriate, nor cost effective, considering the more limited purposes of this bill. Consequently, we recommend that such items be excluded from the assistance authorized under subsection (d)(3) of this measure.

In another area, on the other hand, we believe that subsection (d)(3) may be too restrictive. While apparently drafted to emphasize that certain vocational rehabilitation assistance and services authorized under chapter 31 of title 38 would be available to a veteran found feasible for training under this bill, the subsection's language, nevertheless, can be narrowly read to limit such services to the period during which the veteran is actually enrolled in a training program.

In view of the great difficulty frequently encountered by disabled individuals in obtaining and maintaining stable employment, we recommend that subsection (d)(3) be revised to specify that a veteran who has successfully completed a vocational training program may be afforded employment assistance, including any necessary placement and postplacement services. In this regard, we further recommend that the Administrator be authorized to provide such services for a maximum of 18 months. This would be consistent with a similar chapter 31 provision (38 U.S.C. § 1505(b)), which authorizes such additional services as needed to accomplish the purposes of a rehabilitation program in the individual case.

We would point out that H.R. 5442 contains no provision to guard against possible duplication of benefits. For example, a veteran in training for an associate degree under this section may have entitlement, as well, to educational benefits under the GI Bill for the same pursuit. To insure against duplicative payment of benefits, we believe the bill should be amended to specifically provide that a veteran pursuing training under this program shall not be eligible, while so training, for benefits under any other education programs administered by the VA.

Finally, due to the questions that this program raises concerning such matters as the composition of the targeted veteran population, the character of disabilities implicated, the feasibility of training such veterans, and the real potential for

Honorable G. V. (Sonny) Montgomery

their obtaining and maintaining employment, we believe that the program should be established as a 5-year pilot program, allowing for evaluation of its impact and cost effectiveness in future years.

We estimate enactment of H.R. 5442 would result in the following readjustment benefits costs, administrative costs, and pension savings for Fiscal Years 1985 through 1989:

| FY | Readjustment Benefits Cost ($000) | Pension Savings ($000) | Administrative Costs ($000) |
|---|---|---|---|
| 1985 | $ 2,500 | $ - | $1,209 |
| 1986 | $ 5,100 | $ - | $1,743 |
| 1987 | $ 5,400 | $ -4,300 | $1,761 |
| 1988 | $ 5,600 | $ -8,900 | $1,778 |
| 1989 | $ 5,900 | $-13,700 | $1,795 |
| Total | $24,500 | $-26,900 | $8,286 |

These projections suggest a progressively favorable benefits cost/savings ratio during the first 5 years. However, since we have had no experience in this type of program for pensioners generally, we cannot be certain that long-term savings will be achieved. In view of this, we would strongly recommend that this be a pilot program.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this report to the Congress from the standpoint of the Administration's program.

Sincerely,

HARRY N. WALTERS
Administrator

SIGNED AND DISPATCHED
MAY 22 1984
ADMINISTRATOR'S OFFICE

Chairman SIMPSON. Yes, now the veterans' groups please. Paul Egan, deputy legislative director of The American Legion; Jim Magill, special assistant to the director, National Legislative Service of the VFW; Rick Heilman, national legislative director of the DAV; Robert Moran, associate legislative director of the Paralyzed Veterans of America; and Rick Weidman, director of government relations of Vietnam Veterans of America in Washington.

Even though the clock is not working, the red light still works, you see. So, if you will please proceed. It is nice to have you here, always. You might just proceed in the order there on the agenda for our purposes.

### TESTIMONY OF A PANEL OF REPRESENTATIVES OF VETERANS' ORGANIZATIONS CONSISTING OF: PAUL S. EGAN, DEPUTY DIRECTOR, NATIONAL LEGISLATIVE COMMISSION, THE AMERICAN LEGION; JAMES N. MAGILL, SPECIAL ASSISTANT, NATIONAL LEGISLATIVE SERVICE, VETERANS OF FOREIGN WARS OF THE UNITED STATES; JOHN F. HEILMAN, NATIONAL LEGISLATIVE DIRECTOR, DISABLED AMERICAN VETERANS; BOB MORAN, ASSOCIATE LEGISLATIVE DIRECTOR, PARALYZED VETERANS OF AMERICA; AND RICHARD F. WEIDMAN, DIRECTOR OF GOVERNMENT RELATIONS, VIETNAM VETERANS OF AMERICA

Mr. EGAN. Thank you, Mr. Chairman. It is always a pleasure to be here and participate in the hearings that you hold.

S. 2736 would effect a 4.7-percent COLA effective December 1, 1984. That rate of increase would be contingent upon fluctuations in the CPI in the same fashion as adjustments in Social Security. And the Legion supports the accelerated effective date and urges the committee to assure that adjustments are made at least at the same level as CPI.

S. 2737 proposes a 10-percent increase in educational programs effective October 1, 1984. The Legion supports this as well.

Two legislative proposals offered by the VA are also under consideration. The first of these would change the effective date of reductions or discontinuance of death benefits payable to dependent children. This proposal would establish an effective date of the last date on which the child attended school.

The Legion opposes this proposal because it might deprive an innocent child of minimal economic support.

The second VA proposal would exclude the value of an incompetent veteran's home in calculating the value of his or her estate if it reasonably appeared that a veteran would again reside in that home. The Legion supports this proposal.

S. 2759 would provide a period of trial work extending up to 9 months in cases of veterans rated totally disabled by reason of unemployability. We view this legislation as intended to remove a disincentive for attempting to return to work and therefore support the measure.

S. 2268 would reauthorize the veterans' readjustment appointment authority for 3 years. The Legion supports this measure but recommends that the program be modified by eliminating the educational limitation for eligibility.

Since the program was established in 1970, no modifications in the educational limitation have been made. At the time VRA was established individuals with 14 years or less education may well have qualified for positions at the upper limits of the program, but this is no longer the case. Noting that many of today's college educated were able to avail themselves of Federal education programs unrelated to military service, and further noting that these programs provided nonveterans with an economic advantage over veterans whose service required a later educational start, we believe Congress is well-advised to remove the educational limitations in the spirit of providing an up-to-date readjustment benefit.

S. 2541 would raise the limits of grants, guaranties, and loans to veterans seeking to purchase or modify properties in the VA Home Loan Program. Even though the Legion supports this legislation as necessary in a housing market subject to spiraling inflation, we believe that other modifications should also be made to assist the veteran home buyer, particularly the first time home buyer, more directly.

Having said that, we again draw this committee's attention to the suggestion that the Legion made to this committee last February. If, for example, the loan guaranty offered to bankers were raised in 5 percent increments, up to 60 percent maximum, veterans should receive 1 percent reductions in interest rates below the VA established rate for each incremental 5-percent guarantee increase.

S. 2760 would make three modifications in the Emergency Veterans' Job Training Act.

In the Legion's view each of these modifications is justified primarily by the rather slow start of the program and the wide disparity between the numbers of eligible veterans and those actually having been placed in training positions. As with any new program, a certain period is required to iron out unforeseen problems. And this program is no exception and should be given the best possible opportunity to accomplish its purposes.

That concludes my statement.

Chairman SIMPSON. Thank you very much, Paul.

[The prepared statement of Paul S. Egan, deputy director, National Legislative Commission, The American Legion, follows:]

# PREPARED STATEMENT OF PAUL S. EGAN, DEPUTY DIRECTOR, NATIONAL LEGISLATIVE COMMISSION, THE AMERICAN LEGION

Mr. Chairman and Members of the Committee:

The American Legion is appreciative of this opportunity to share its views with you on the legislative proposal calling for increases in service-connected disability and death benefits, as well as several other measures under consideration today, all of which pertain to benefits to veterans, their dependents, and survivors. We shall address each proposal with respect to its intent, thus the bills do not follow in numerical sequence.

S. 2736 proposes to increase by 4.7% the rates of disability compensation for disabled veterans and the rates of dependency and indemnity compensation for surviving spouses and children of veterans. The effective date of these increases would be December 1, 1984.

However, as the annual cost-of-living increases authorized for social security recipients, effective December 1 of each year, is based upon a determination of the increase in the Consumer Price Index for the period, S. 2736 provides that if the increase in the Consumer Price Index is not 4.7%, then the proposed increases are to be at the same percentage as the percentage cost-of-living increase for social security beneficiaries. The increased dollar amounts and rates would be published by the Administrator of Veterans Affairs in the Federal Register at the same time that material relating to the increase in social security benefits is published.

The American Legion is certainly supportive of cost-of-living increases in service-connected disability and death benefits. We believe they should at least be consistent with the increases in the Consumer Price Index. This position is set forth in Resolution No. 76(Nebraska) adopted by the 1983 National Convention.

S. 2737 - would amend title 38, USC so as to provide a 12% increase in the rates of subsistence and educational assistance allowances for veterans pursuing vocational rehabilitation programs under chapter 31, and for veterans and eligible persons pursuing education or training programs under chapters 34, 35, and 36; and an increase in the reporting fees paid to educational institutions.

The subsistence rates and educational allowances were last increased pursuant to the enactment of Public Law 96-466 effective October 1, 1980, and January 1, 1981. The level of benefits provided has not allowed veterans to keep pace with the increasing costs of tuition, books, and supplies. As a result, many veterans have not been able to fully utilize the education and training opportunities provided under the law. Many have been forced to reduce the number of courses or discontinue their program altogether, because of financial need.

The American Legion is mandated to seek an increase in subsistence rates and educational allowances based on Resolution No. 130-(Ohio), adopted by the 1982 National Convention. We believe the proposed increases in subsistence rates and educational allowances are both necessary and overdue.

Mr. Chairman, at this time, we wish to address two legislative proposals offered by the Veterans Administration.

The first proposes to amend section 3012(b), title 38, United States Code, by deleting clause(7) so as to change the effective date of a reduction or discontinuance of certain benefits. Currently, death pension benefits payable to a child are discontinued as of the child's eighteenth birthday. However, if the child is in school past that date, benefits are not discontinued until the end of the month in which the child terminates school attendance. This amendment would establish the date of discontinuance of benefits as the last date in which the child attended school.

The American Legion is opposed to this amendment as we see no compelling reason to deprive a child of this minimal amount of economic support.

The second proposal would amend section 3203(b)(1) of title 38, United States Code by deleting the term "by mental illness" and including language that would exclude the value the home of a veteran having neither spouse nor child, and who is institutionalized and incompetent, in determining the value of the veteran's estate for benefit payment purposes.

Under current law, if an institutionalized incompetent single veteran's estate, from any source, equals or exceeds $1500, further payment of benefits will stop until the estate is reduced to $500. This requires inclusion of the value of the veteran's home in the calculation of the amount of the estate. This practice has resulted in instances where the veteran's home has been sold, in compliance with the law. Subsequently, the veteran could not be discharged from the institution, as he or she did not have a place to live.

This proposal would exclude the value of the veterans' home in the calculation of the estate if it appears reasonably certain the veteran will again reside in such home.

The Legion strongly supports the intent of this provision.

S. 2759 - proposes to amend chapter 11, title 38, United States Code, by adding new section 363, to provide for a period of trial work for veterans assigned service-connected total disability ratings by reason of individual unemployability.

Beginning with the month following the month in which the total disability rating was assigned, a veteran could engage in work on a trial basis for up to a total of nine months, not necessarily consecutive months, without an adverse effect upon their benefits. This program of trial work would be comparable to the provision for trial work under section 222(c) of the Social Security Act.

We understand that this measure is designed to remove the disincentive of trying to return to work for those veterans who are rated as totally disabled by reason of individual unemployability. The trial work concept would be in line with that included in the VA's vocational rehabilitation program, which seeks to assist disabled veterans in preparing to return to and remain in the work force.

The American Legion has no objection to efforts to assist veterans toward economic and vocational rehabilitation, as long as they are not driven into activities that would endanger their health. On that basis, we would not oppose the program proposed in S. 2759.

S. 2267 - would amend title 38, United States Code to increase from $4400 to $4840 the maximum amount of automobile adaptive equipment assistance the Administrator of Veterans Affairs may provide to certain severely service-connected disabled veterans. This amendment would be effective October 1, 1984.

Section 1902(a) of the title currently authorizes a maximum of

$4400 for automobile adaptive equipment for those persons eligible under section 1901. This allowance has been increased periodically in response to the upward trend of automotive costs. The last increase was provided under Public Law 97-66, effective October 1, 1981. The trend of higher car prices in the last 3 1/2 years has continued. The American Legion, therefore, believes the proposed increase in the adaptive equipment allowance is appropriate.

Mr. Chairman, we commend to your attention one additional bill relating to compensation which is not under active consideration by the Committee this morning. S. 1371 would provide for the addition of lupus erythematosis to the list of chronic diseases for which presumptive service-connection may be established.

The measure would amend section 312(a)(1) of the title to include lupus erythematosis among those chronic diseases considered to be service-connected for the purpose of veterans' benefits if occurring within one year from the date of a veteran's separation from service.

The American Legion has sought an amendment to title 38 for this purpose for many years. Most recently, the 1983 American Legion Convention adopted Resolution No. 325(West Virginia) reaffirming this position. A copy of this resolution is attached.

Mr. Chairman, there are three additional bills under consideration today which are of general economic interest to veterans. The first of these, S. 2268, is legislation to reauthorize the Veterans Readjustment Appointment Authority (VRA) for three years. The VRA has been very successful in assisting Vietnam era and disabled veterans by providing non competitive placements in the federal civil service. Currently, veterans are eligible if they are either disabled or lack more than 14 years of education. If qualified, eligible veterans may be placed in federal jobs up through the GS-7 schedular level.

The American Legion supports the legislation, but also suggests a modification in the program. In that regard, we recommend that the 14 year educational limit be removed so as to allow veterans with more than 14 years of education to qualify. In our view, removing the educational limitation would permit more veterans to be placed in GS-5 through GS-7 jobs. As currently administered, very few eligible veterans are qualified for GS-5 to GS-7 placements precisely because of the education limitation. Assuming that Congress intended eligible veterans to receive placements in the GS-5 to GS-7 range, it is appropriate to remove the most serious impediment to such placements.

Since the VRA was established in 1970, no modifications in the educational limitation have been made. At the time VRA was established, individuals with 14 years or less of educational training may very well have qualified for positions at the upper limits of the program. This, however, is no longer true. Since 1970 qualifications for employment in both the private and public sectors have been inflated because of the millions of individuals having completed college education. Noting that many of todays college educated were able to avail themselves of federal education programs unrelated to military service and further noting that these programs provided nonveterans an economic advantage over veterans whose services required a late educational start, we believe that Congress is well advised to seriously consider removal of the educational limitation.

Another measure of economic importance to veterans is S. 2451. This legislation would raise the limits of grants, guarantees and loans to veterans seeking to purchase or modify property using the VA home loan program. The American Legion supports this legislation recognizing that inflation in the housing market has caused housing costs to escalate. In order to maintain the overall program as up-to-date and consistent with existing housing market conditions, the increases called for by this legislation are warranted.

After having expressed our support for the legislation, there is one matter we wish to bring to the committee's attention. Last February when this Committee held an oversight hearing on the VA home loan program the Mortgage Bankers Association pointed out that veterans consitituted between 7 and 8 percent of the overall home buying market. Attached to their statement was a document outlining the percentage of mortgages being written for veterans by mortage bankers over an extended period of time. According to that document, mortgage bankers have been writing about 70 percent of all veteran mortgages over that period. Given this high percentage along with the fact that veterans comprise such a small share of the home buying market, we have to believe that the current guarantee level on conventional housing remains very attractive to mortgage bankers.

Even though the legislation under consideration to raise the guarantee on conventional housing should be passed and enacted so as to maintain banker interest in veteran home buyers, the Legion strongly believes that other modifications in the home loan program could and should also be made to assist veteran home buyers more directly. With this in mind, we again draw the committee's attention to the suggestions the Legion made in its testimony before this Committee last February. At that time, it will be recalled, we proposed a series of modifications to make housing more affordable to veterans, particularly first time home buying veterans.

If, for example, the loan guarantee offered to bankers were raised in five percent increments, up to a 60 percent maximum, veterans should receive one percent reductions in interest rates below the VA established rate for each incremental 5 percent guarantee increase. Moreover, since veterans using the VA program are still very attractive to bankers, it is reasonable to assume that requiring bankers to reduce rates in exchange for increased guarantees would pose few if any new impediments to continued bankers' interest in first time veteran home buyers.

If put into place and successful, this modification holds the prospect of dramatically reducing monthly mortgage and interest payments allowing millions of veterans to enter the market and purchase homes. The accompanying benefits to the nation's economy generally and the housing market specifically seem obvious.

A final measure under consideration today is S. 2760, the proposed Emergency Veterans Job Training Act Extension of 1984. Under this legislation, the period during which a veteran can apply for participation would be extended from November 20, 1984 to May 31, 1985. Also, the period within which a veteran must begin training under the program would be extended six months from March 1, 1985 to September 1, 1986. Finally, the certificate of eligibility awarded to veterans would be given an extended life by making it good for 90 rather than 60 days.

In the Legion's view each of these modifications is justified primarily by the rather slow start of the program and the wide disparity between the numbers of eligible veterans and those actually having been placed in training positions. As with any new program, a certain period of time is required to iron out unforeseen problems. The emergency jobs program is no exception and should be given the best possible opportunity to accomplish its purposes.

In the case of this program, further delay than expected in getting the program off to a good start has undoubtedly resulted from its administration through at least two agencies; VA and Department of Labor. From the information available to us these problems have been sorted through and interagency coordination has been established.

With regard to the program's administration, however, there is one rather unsettling point that should be recognized. According to the provisions of PL 98-77, the Small Business Administration (SBA) is required to cooperate. The rationale for SBA inclusion in the program was and is derived from the fact that most new jobs added to the overall economy are generated by small business. Therefore, it was seen advisable to take advantage of the potential benefits of SBA regional office resources in identifying specific small business employers who could benefit from the training subsidy.

For whatever reasons, SBA has not made its resources as available to VA and DoL in the implementation of the program as was originally contemplated. We have to believe that if SBA were either asked for assistance by VA and DoL or directly offered its assistance, many more of the currently eligible but still unemployed veterans would have been placed in training positions.

Moreover, the adjustments in the program contained in the legislation can be expected to provide needed additional time to place veterans in training. Even though general economic conditions have improved around the nation since the program was enacted, the veterans who have been certified as eligible for participation in the program should not be penalized by the time it takes for a multiple agency directed program to be satisfactorily put in place. Those eligible veterans in need of this training are just as unemployed today as they were during the darkest period of the nation's most recent recession.

Mr. Chairman, that concludes our statement.

SIXTY-FIFTH ANNUAL NATIONAL CONVENTION OF THE AMERICAN LEGION
SEATTLE, WASHINGTON, AUGUST 23, 24, 25, 1983

RESOLUTION: No. 76 (Nebraska)

COMMITTEE: Veterans Affairs and Rehabilitation

SUBJECT: Support legislation to amend 38 USC, section 314, so as to increase the monthly rates of disability compensation

WHEREAS, disability compensation is a monthly payment made by the Veterans Administration to a veteran because of a service-connected disability; and

WHEREAS, these disability compensation payments are based on a schedule of ratings of reduction in earning capacity from specific injuries or combination of injuries adopted by the Administrator of Veterans Affairs; and

WHEREAS, in response to increased cost of living and other factors, the weekly take home pay of the blue collar worker in non-agriculture employment is constantly increasing; and

WHEREAS, to maintain the purchasing power of these disabled veterans, or those entitled to receive these monthly benefits, the rates payable must respond to cost-of-living increases; and

WHEREAS, it is the opinion of The American Legion that there is no way to adequately compensate a veteran for loss of ability to be a working, productive member of our society, and that the monthly rates of disability compensation do not adequately compensate these disabled veterans for their loss due to reduced earning capacity; and

WHEREAS, The American Legion believes a further readjustment in the amount of disability compensation rates is needed so that these veterans can fulfill their fundamental purpose, that is, to assure that they have sufficient economic maintenance; now, therefore, be it

RESOLVED, by The American Legion in National Convention assembled in Seattle, Washington, August 23, 24, 25, 1983, that The American Legion support legislation to amend section 314 of title 38, United States Code, to increase the monthly rates of disability compensation.

SIXTY-FOURTH ANNUAL NATIONAL CONVENTION OF THE AMERICAN LEGION
CHICAGO, ILLINOIS, AUGUST 24, 25, 26, 1982

RESOLUTION: No. 130 (Ohio)

COMMITTEE: Veterans Affairs and Rehabilitation

SUBJECT: Sponsor and support legislation to increase allowances in education and training under Chapter 34, title 38, USC

WHEREAS, there are approximately 456,000 Vietnam Era veterans still training under Chapter 34 of title 38, United States Code; and

WHEREAS, the education allowances payable to these veterans were last increased by Public Law 96-466, effective January 1, 1981; and

WHEREAS, the rate of inflation subsequent to the last increase has run rampant, thus the education benefits payable under Chapter 34 have not kept pace with increases in the cost of living as measured by the Consumer Price Index, and concurrent increases in the costs of tuition, books and other educational supplies; and

WHEREAS, without continued increases in these allowances it can be expected that a large majority of those veterans now engaged in programs of education or training will have to forego or modify their plans to pursue programs of higher education; and

WHEREAS, The American Legion is quite concerned about the continuing economic and readjustment problems, and the unemployment of the Vietnam Era veteran, and realizes that the aim and purpose of education and training programs is to provide such veterans with the career development needed to enter the employment field in competition with those individuals who did not serve in the Armed Forces; now, therefore, be it

RESOLVED, by The American Legion in National Convention assembled in Chicago, Illinois, August 24, 25, 26, 1982, that The American Legion sponsor and support legislation in the Congress of the United States to amend Chapter 34 of title 38, United States Code, so as to increase the amounts payable under this chapter by an amount equal to increases in the Consumer Price Index since January 1, 1981.

APPROVED WITH AMENDMENT

SIXTY-FIFTH ANNUAL NATIONAL CONVENTION OF THE AMERICAN LEGION
SEATTLE, WASHINGTON, AUGUST 23, 24, 25, 1983

RESOLUTION: No. 325 (West Virginia)

COMMITTEE: Veterans Affairs and Rehabilitation

SUBJECT: Sponsor and support legislation to provide service connection for Lupus Erythematosis becoming manifest to a degree of 10 percent or more within one year from the date of separation from a period of war service

WHEREAS, in 38 USC 301(B)(3), there are listed those chronic diseases which shall be considered to have been incurred in or aggravated by war service when manifested to a compensable degree within one year from date of separation from a period of such service; and

WHEREAS, Lupus Erythematosis, one of the collagen vascular diseases, is a chronic inflammatory connective tissue disorder of unknown etiology; and

WHEREAS, the onset of this disease, in many instances, is insidious and extending over a period of months, or frequently years; and

WHEREAS, a definite diagnosis of Lupus Erythematosis often times can be established only on the history of symptoms; and

WHEREAS, The American Legion believes that this disease, by reason of its insidious onset and difficult early diagnosis, should be included among those chronic diseases which shall be granted service connection if manifested initially to a compensable degree within one year from date of separation from a period of war service; now, therefore, be it

RESOLVED, by The American Legion in National Convention assembled in Seattle, Washington, August 23, 24, 25, 1983, that The American Legion sponsor and support legislation so as to amend title 38, United States Code 301(B)(3), by adding Lupus Erythematosis to the list of chronic diseases that shall be considered to be service-connected under section 312(a)(1), when manifested to a degree of ten percent within one year from the date of separation from a period of war service.

Chairman Simpson. Jim Magill, please.

Mr. Magill. Thank you, Mr. Chairman, for the privilege of presenting the views of the Veterans of Foreign Wars. In keeping with your request to limit our remarks I would like to first comment on the legislation calling for a trial work period for those rated at 100 percent for unemployability. While we support the intent and concept of the bill, we question to what extent it would be accepted and what problems would arise in administering it.

We also would recommend that thought be given to making the program available only to those who after being reevaluated face removal from the rolls. We believe this would be more effective and contribute to the program's success.

With respect to the VA's proposal to terminate education payments on the last day of school attendance, for the reasons elaborated on in my prepared statement we do not support this action.

Finally, Mr. Chairman, we support the remaining proposals before us this morning.

This concludes my remarks and I will be happy to respond to any questions you may have.

Chairman Simpson. Thank you very much, Jim.

[The prepared statement of James N. Magill, special assistant, National Legislative Service, Veterans of Foreign Wars, follows:]

VETERANS OF FOREIGN WARS OF THE UNITED STATES

PREPARED STATEMENT OF

JAMES N. MAGILL, SPECIAL ASSISTANT
NATIONAL LEGISLATIVE SERVICE
VETERANS OF FOREIGN WARS OF THE UNITED STATES

BEFORE THE

COMMITTEE ON VETERANS AFFAIRS
UNITED STATES SENATE

WITH RESPECT TO

VARIOUS LEGISLATIVE PROPOSALS AFFECTING THE
VETERANS ADMINISTRATION COMPENSATION AND
EDUCATION PROGRAMS

WASHINGTON, D. C. JUNE 20, 1984

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

Thank you for the opportunity to present the views of the Veterans of Foreign Wars with respect to the various legislative proposals before us today affecting the Veterans' Administration compensation and education programs. The VFW is appreciative of the Chairman for holding this hearing, demonstrating his and the Committee's continuing concern for our nation's veterans.

Mr. Chairman, S. 2736 would provide a 4.7 percent cost-of-living adjustment, effective December 1, 1984, for the VA's compensation and dependency and indemnity program, the additional allowance authorized for certain dependents, and the clothing allowance for eligible veterans. Inasmuch as the Congressional Budget Office now estimates an increase in the Consumer Price Index of 4.7 percent, the VFW believes the proposed increases provided for in S. 2736 are justified and appropriate. The VFW also supports Title III of the bill which provides a mechanism of alternative rate increase should the December 1, 1984 increase in benefit amounts under Title II of the Social Security Act not be 4.7 percent.

Mr. Chairman, S. 2737, introduced by you and the Ranking Minority Member, would provide a 10 percent rate increase effective October 1, 1984, for persons eligible for VA educational benefits under Chapters 31, 34, 35 or 36 Title 38, USC.

The most recent GI Bill rate increase was a two-step increase of 5 percent effective October 1, 1980 followed by a similiar amount effective January 1, 1981. According to the National Center for Education Statistics, for the three year period prior to this increase education costs at all public and private institutions have increased 11 percent and 17.2 percent respectively. Over this same time (1977 through 1979) the average annual increase in the CPI for each year was (a) for 1977, 6.5 percent; (b) for 1978, 7.7 percent; and (c) for 1979, 11.3 percent. These figures represent a cumulative increase in the CPI of 25.5 percent.

A review of information also obtained from the National Center for Education Statistics for the years 1980 through the 1983-1984 school year indicates at all costs at public institutions have risen 31.5 percent and similiar costs at private institutions have risen 34.9 percent. At the same time, the average annual CPI increased (a) for 1980, 13.5 percent; (b) for 1981, 10.4 percent; and (c) for 1982, 6.1 percent representing a cumulative figure of 30 percent.

From our analysis of this information, we can only conclude that veterans utilizing benefits under the GI Bill have lost substantial ground when considering the significant increase in educational costs as they relate to the inflationary erosion of benefits payments. While we do not oppose the proposed 10 percent increase, the VFW, for the previously stated reasons, believes the amount falls far short of being adequate. One must also bear in mind this increase may very well be the last before the 1989 termination date of the current GI Bill.

We would also like to comment on a related legislative proposal, submitted by the Veterans Administration, to change the effective date for a reduction or discontinuance of benefits based on school attendance of an eligible veteran or his dependent. Because the above cited statistics evidence the extent of the erosion of benefit payments made under the GI Bill, we oppose enactment of this initiative. Had more meaningful and timely increases been granted in educational benefits, such as has been accomplished in the compensation and pension programs, we would not consider such a legislative initiative inappropriate.

Mr. Chairman, S. 2267, a bill which would increase from $4400 to $4840 the maximum amount of the automobile assistance grant provided to certain severely, service-connected disabled veterans; S. 2268, extending for three years the authority for veterans readjustment appointments; S. 2451, increasing the maximum amount provided for specially adapted housing assistance grants and various home loan guaranties; and S. 2760, extending for six months the Emergency Veterans Jobs Training Act are bills introduced by the Honorable Alan Cranston, Ranking Minority Member of the Committee. The VFW supports enactment of each of these proposals.

S. 2759, again, introduced by the Ranking Minority Member, would establish within the VA's service-connected disability compensation program a type of trial-work period for those veterans assigned extra scheduler total disability ratings by reason of unemployability. While the VFW endorses the concept and intent of the proposal, we do have reservations as to how the program would be administered and to what degree it would be accepted by those eligible to participate. We do not foresee an abundance of veterans coming forward to participate while harboring suspicions that after the trial-work period, should they for some reason not be able to continue in the work-force, the liklihood of a smooth re-instatement proceedure would be remote. In addition, one would have to question that if there is indeed a need for such a program whether the criteria standards incorporated into the current evaluation system are adequate in determining eligibility.

As stated previously, the VFW does support the concept and intent of the proposal, but believes it could be more effective and beneficial if offered to a "targeted" group instead of open-ended. We recommend that should, in the judgement of the VA, a veteran's disability improves to the point of no longer qualifying for an unemployability rating he then would be automatically enrolled in the trial-work program. By "targeting" only those veterans who face removal from the rolls, much anxiety and skepticism on behalf of the veteran would be eliminated. Instead of possibly being misinterpreted by the veteran as another way to "purge" the rolls, the program would be a positive indication of the VA's commitment to making the transition period from unemployability compensation recipient to productively employed citizen less traumatic.

Finally, the VFW has no objection to the Veterans' Administration proposal to exclude from consideration in computing an incompetent veterans' estate, the value of such veterans' homes for the purpose of determining the value of their estates when it appears reasonably certain the veteran will again reside in the home.

Mr. Chairman, appended to my statement, for your review, is a copy of our current resolution entitled "Increase Disability Compensation For Disabled Veterans." This concludes my statement. I will be happy to respond to any questions you may have.

Resolution No. 628

## INCREASE DISABILITY COMPENSATION FOR DISABLED VETERANS

WHEREAS, this increase approximates the inflation rate for the Calendar year 1983; and

WHEREAS, this increase will be of direct economic assistance to the disabled veteran to help keep pace with the increases in the cost of living; and

WHEREAS, the Veterans of Foreign Wars, does support the proposed six month delay in the cost of living adjustment only if uniformly shared by all Federal beneficiaries; now, therefore

BE IT RESOLVED, by the 84th National Convention of the Veterans of Foreign Wars of the United States, that we seek enactment of legislation by the Congress of the United States which will provide the disabled veteran who is drawing compensation from service connected disability, the increase in his or her compensation as requested above.

Adopted by the 84th National Convention of the Veterans of Foreign Wars of the United States held in New Orleans, Louisiana, August 12-19, 1983.

Chairman SIMPSON. Rick Heilman now.

Mr. HEILMAN. Good morning, Mr. Chairman, Counsel Principi. I will summarize my statement.

With regard to S. 2736, the DAV does support the upward adjustment in compensation and DIC benefit rates. We do thank the committee for proposing a December 1 effective date for the full adjustment this year. We note that the House has already passed such a measure with such an effective date, and we hope you will agree with that body.

With respect to S. 2737, a 10-percent increase in chapters 31, 34, 35, and 36, DAV certainly supports an adjustment in the vocational rehabilitation program under chapter 31 and the dependents' and survivors' educational benefits under chapter 35.

S. 2267 proposes to increase the one-time grant under the VA's Automotive Adaptive Equipment Program from $4,400 to $4,840, that's a 10-percent adjustment. The grant was last increased 3 years ago. We believe the increase in the purchase price of automobiles justifies this proposal.

With respect to S. 2268, extension of the current VRA authority, we do support such an extension. This program, since it was established by Executive order in 1970, has been highly successful. I believe over 200,000 veterans to date have received this type of employment assistance with the Federal Government and we certainly believe it should be ongoing.

With regard to S. 2451, increases in the special adapted housing grants administered by the VA, both the wheelchair home and the smaller grant for veterans who have incurred a loss or loss of use of both upper extremities or are blinded, we certainly, again, support increasing these grants; we also support an increase in the loan guaranty amounts as proposed.

We also do support the 6 months extension in the Emergency Jobs Training Act. Noting the conversation that you had with the VA on this matter, Mr. Chairman, I would suspect that probably, as you indicated, the problem doesn't lie within outreach to veterans. As has been noted, there have been almost 150,000 applications approved. Unfortunately, only 8,000 veterans are in jobs.

I would think probably the problem lies with outreach toward the employers, getting increased employer assistance under the program. But we certainly believe that the program should be extended.

We have no position on the VA legislative proposals with regard to incompetent institutionalized veterans and the reduction or the change in the effective dates for reductions or discontinuances in educational benefits.

With regard to the trial work period for code 18 unemployable veterans, we do support this proposal, Mr. Chairman. We appreciate the fact that Senator Cranston has introduced this measure at our request.

We do believe that it will be an incentive for this category of veterans to actively attempt to get back into the job market. We do not anticipate, as the VA witness noted, that veterans will be attempting to get a job shortly after receiving an unemployability rating. That is not how it is going to happen.

What is going to occur and what is occurring is that after several years of an unemployability status, either through attainment of a vocational skill or a job opportunity, some of these veterans attempt to, and some are successful, in getting back into substantial gainful employment. We think it would be an incentive for veterans to make this initial effort with a trial work period.

The VA witness noted that the full amount of payment is not reduced abruptly, usually 2 or 3 months after notifying the VA that they are working.

Well, that's true. But nonetheless, if a veteran is not going to be able to continue in employment and make it back as a productive citizen, that is most likely going to occur certainly within the first year of employment. And once these veterans find that they cannot maintain that job and so notify the VA and reapply for their unemployability status, it is not automatically granted. Sometimes reexamination is required. The VA may require evidence from the employer that the veteran could not continue because of the service-connected disabilities. And in fact, the local rating boards could deny reinstatement of the unemployability status, and if it is appealed this could take a matter of months, perhaps a year or so to regain that status.

In the meantime, the veteran, since he is no longer working, has had a substantial reduction in benefits, as high as $1,000 a month.

So we do think the committee should seriously consider this proposal.

Finally, Mr. Chairman, though you do not have it on your agenda, just a moment to let you know of our continued interest in S. 1371, a bill that was introduced last year by Senator Randolph that would add systemic lupus erythematosis to the chronic diseases listed in section 301(3).

Our views are on the record during the hearings last year. We would note that the House-passed compensation bill has a lupus provision in it. And also bring to your attention that the Women's Advisory Committee, the VA's Advisory Committee on Women Veterans, is making such a recommendation to the VA that lupus be added to the chronic diseases, as a large percentage of the victims are females.

We hope you will again give it reconsideration.

This concludes my statement, Mr. Chairman.

Chairman **Simpson**. Thank you very much, Rick.

[The prepared statement of John F. Heilman, national legislative director, Disabled American Veterans, follows:]

# PREPARED STATEMENT OF JOHN F. HEILMAN, NATIONAL LEGISLATIVE DIRECTOR, DISABLED AMERICAN VETERANS

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

On behalf of the 876,000 members of the Disabled American Veterans, may I say that we deeply appreciate being given this opportunity to present our views on legislation relating to the service-connected disability and death compensation programs of the Veterans Administration, as well as legislation pertaining to veterans' educational and employment benefits.

## S. 2736

Mr. Chairman, the provisions of S. 2736, introduced in the Senate at the request of the Administration and cosponsored by yourself and Senator Cranston, would authorize a 4.7% across-the-board increase in basic disability compensation and DIC (service-connected death) benefit rates. This same percentage rate of increase would also be extended to the dependency allowances and, with one exception, to the special statutory awards and ratings that apply to the compensation and DIC programs, as well as to the VA's annual clothing allowance payable to certain service-connected veterans whose prosthetic or orthopedic devices cause unusual damage to clothing.

The proposed increases carry an effective date of December 1, 1984 and would require approximately $392 million in new budget authority and $354 million in budget outlays during the last ten months of Fiscal Year 1985.

Put in more meaningful terms, Mr. Chairman, the benefit increases would range from an additional $36 per year ($3.00 monthly) for a veteran with a 10% service-connected disability to $708 more per year ($59 monthly) for a veteran who is determined to be 100% totally and permanently disabled due to service-connected disabilities.

Mr. Chairman, in any consideration of an increase in VA disability and death compensation payments, it is important to recall the principles upon which these programs were established:

> Disability compensation paid to veterans attempts to represent, to the most practical degree possible, the average impairment in earnings capacity caused by service-connected disability. DIC benefits, on the other hand, are intended to provide a measure of financial security to widows and children in view of the service-connected death of their husbands and fathers.

Over the years, this Committee has been most diligent in its efforts to assure that the purchasing power of these benefits keeps pace with our society's rising costs of goods and services. The most recent adjustment of these rates authorized by Public Law 98-223, though "delayed" six months due to budget constraints, represented the tenth consecutive year that your Committee has addressed this most important issue.

Mr. Chairman, in examination of recent and projected inflationary growth, it is appropriate to note that the time frame between the compensation/DIC benefit adjustments just authorized by Public Law 98-223 and the increase authorized by Public Law 97-306 in the fall of 1982, involved a period of some 18 months. As stated, this "addition" of six months to the "normal" 12 month span between benefit adjustments that has characterized legislative increases in the program during the last ten years, was necessitated by our ever-rising national deficit and associated economic problems.

Though this delay and resultant tax dollar savings may have afforded some respite to the Fiscal Year 1984 budget request, it had the opposite effect on compensation/DIC beneficiaries as the 3.5% adjustment of Public Law 98-223 was more than offset by the 5.7% increase in the Consumer Price Index which has occurred since October, 1982. This fact, coupled with the advancement in the CPI is bound to occur between the present date and December 1st of this year, certainly justifies the 4.7% increase proposed by the pending bill. Depending upon the actual CPI movement that does take place during the next seven months, a higher rate of increase could very well be justified.

Mr. Chairman, S. 2736 does not include an upward adjustment in the "k" award set forth in Section 314(k), Title 38, USC. This is a special monthly benefit--presently $62--paid in addition to the basic rates of compensation of veterans who have incurred the service-connected loss or loss of use of a single extremity or certain other body organs and functions.

This particular award has not always been included in prior compensation bills and was last increased to its present figure by Public Law 96-128, approved November 28, 1979. We strongly urge the Committee to include the "k" award in the compensation legislation that it recommends to the floor of the Senate.

## S. 2737

Mr. Chairman, the measure S. 2737, introduced in the Senate by yourself and Senator Cranston, proposes a 10% across-the-board increase in VA educational benefits under Chapters 31, 34, 35 and 36, Title 38, USC, effective October 1, 1984. Such an adjustment would require $160 million and $153 million in increased budget authority and outlays in Fiscal Year 1985.

As you know, Mr. Chairman, DAV membership is comprised of honorably discharged veterans who were wounded, injured or otherwise disabled in the wartime service of our country. It therefore follows that our organization is primarily concerned with veterans' educational benefits as provided by the Vocational Rehabilitation Program under Chapter 31 and the Survivors' and Dependents Educational Assistance Program as provided under Chapter 35, Title 38, USC.

Accordingly, and noting that the benefit rates for these two programs were last adjusted through the enactment of Public Law 96-466 in October, 1980, the DAV does strongly support the upward adjustment of the subsistence and educational assistance allowances in the two programs. Though we have no official position with regard to veterans' educational assistance (G.I. Bill) benefits as provided under Chapter 34, Title 38, USC, we have no objection to a similar adjustment of these benefit amounts.

## S. 2267

The bill S. 2267, introduced by Senator Cranston and cosponsored by Senators Randolph, Matsunaga and DeConcini, proposes, through appropriate amendment of Section 1902(a), Title 38, USC, to increase from $4,400 to $4,840 the maximum assistance now available under the VA's Automotive Adaptive Equipment Program.

Under current law, the VA administers a program of automobile and adaptive equipment assistance for certain severely disabled veterans who have incurred the service-connected loss or loss of use of one or both hands or feet, blindness in both eyes to a prescribed degree or certain limitation of functions in the lower extremities.

This assistance includes:

1. a one-time grant not to exceed $4,400 toward the purchase price and adaptation of an automobile or other conveyance; and

2. reimbursement for the cost of installation, repair and replacement of authorized adaptive equipment in subsequently purchased automobiles, so as to insure that an eligible veteran will be able to operate a vehicle in a safe and proper manner.

Mr. Chairman, the one-time automobile award was last increased to its present figure in the fall of 1981 through enactment of Public Law 97-66. Noting the October 1, 1984 effective date contained in the pending bill, one can well assert that the rise in the price of automobiles during the past three year period is ample justification for the proposed 10% grant increase.

The DAV does support this measure and we strongly urge favorable action by the Committee.

## S. 2268

The measure S. 2268, introduced in the Senate by Senator Cranston and cosponsored by Senators Randolph, Matsunaga and DeConcini, proposes, through appropriate amendment of Section 2014(b)(2) of Title 38, USC, to extend for three additional years the authority for Veterans' Readjustment Appointments (VRA) in the federal civil service.

Mr. Chairman, as you are aware, the current VRA authority, which is now scheduled to expire of September 30 of this year, permits certain Vietnam Era veterans to be given accepted appointments in the federal civil service--that is to say, these veterans can be hired "non-competitively" directly into a federal job, with an opportunity for regular career appointment upon termination of the VRA training.

Since the creation of VRA authority in 1970 by Presidential Executive Order and through its codification and improvement by subsequent statutes, the DAV has been most supportive of this program. To date, over 200,000 Vietnam Era veterans have been provided this type of initial job opportunity. Substantial numbers of these have successfully made the transition into career employment.

The DAV regards the VRA program as one of the most successful federal efforts promoting employment opportunities for Vietnam veterans and we therefore urge favorable consideration of S. 2268.

### S. 2451

The pending bill S. 2451, also introduced by Senator Cranston and cosponsored by Senators Randolph, Matsunaga and DeConcini, proposes, through appropriate amendment of Chapter 21, Title 38, U.S. Code, to increase the rates of special adapted housing assistance offered to certain categories of severely disabled, service-connected veterans and, through appropriate amendment of

Chapter 37, Title 38, U.S. Code, proposes to increase the maximum amounts of VA home loan guarantees for conventional and manufactured (mobile home) housing.

As the Committee is aware, the VA currently administers two programs which provide assistance to veterans who, because of the severe nature of their service-connected disabilities, require certain adaptations and modifications in their homes in order to have safe access and egress and otherwise live in a natural, comfortable environment.

This assistance is in the form of:

1. a one-time grant, not to exceed $32,500, for service-connected veterans who suffer from bilateral lower extremity losses, various combinations of blindness and single and double extremity losses or other disabilities that prevent natural balance, propulsion and locomotion; and

2. a one-time grant, not to exceed $5,000, for veterans who suffer from service-connected bilateral blindness or the loss or loss of use of both upper extremities.

The above cited grant of $32,500 was last adjusted to its present amount through the enactment of Public Law 97-66 in October, 1981. Prior to that time, the grant was $30,000.

The smaller grant of $5,000 has not been adjusted since its creation by the Congress which occurred in October, 1980 through the enactment of Public Law 96-385.

The pending bill would authorize, effective October 1, 1984, Chapter 21 grant adjustments of approximately 17% and 10%, increasing them from $32,500 and $5,000, to $38,000 and $6,000, respectively. Chapter 37 Home Loan Guaranty amounts would be increased from $27,500 to $35,000 for conventional housing and $20,000 to $22,000 for manufactured homes.

Mr. Chairman, the rise in the cost of new home construction and purchase experienced during the past three-four year period justifies the proposed grant and Home Loan Guaranty increases embodied in S. 2451. We therefore urge favorable consideration of the bill by the Committee.

## Trial Work Period for Service-Connected Veterans Assigned a Total Rating Due to Unemployability

Mr. Chairman, in your listing of legislation to be considered during this morning's hearing you included the draft of a bill soon to be introduced by Senator Cranston which proposes, through appropriate amendment of Chapter 11, Title 38, USC, to authorize a period of "trial work" for veterans assigned a total service-connected disability rating by reason of unemployability, without disruption of the total rate of compensation payments during such period of trial work.

Initially, may I extend to you, Senator Cranston, the thanks of the DAV for your sponsorship of this measure. As you know, we have had recent discussions with your staff concerning the possibility of such a modification in this aspect of the disability compensation program. (A similar trial work period does exist in the Social Security disability insurance benefit program.) Your prompt response in the form of the above cited proposal is most appreciated.

Mr. Chairman, consideration for the 100% schedular rate of disability compensation payment due to "unemployability" has been in the VA's Rating Schedule for over 50 years (the 1925 Rating Schedule provided for such consideration and the unemployability criteria, as we know it today, has existed since 1941. [Extension No. 4 of the 1933 Rating Schedule, effective November 15, 1941]).

To put it in the simplest of terms, the unemployability provisions of current regulation were designed to give the VA the authority to authorize a 100% rate of payment to certain severely disabled veterans (60%-90% service-connected disabled) who have established that they cannot engage in substantial, gainful employment due to their service-connected disabilities and who, because of the percentage evaluations assigned to them under Rating Schedule and formula governing computation of combined ratings, cannot achieve a 100% schedular rate (and therefore a 100% compensation payment).

Mr. Chairman, notwithstanding the assignment of an unemployability rating by the VA which, generally, concedes the static nature of the service-connected disabilities involved and their prevention of substantial, gainful employment, some veterans through attainment of a new vocational skill or job opportunity are able to once again become gainfully employed. When this occurs, such veterans are obligated to report their employment status to the VA and, upon doing so, their disability compensation payments are reduced to the amount called for by their regular schedular ratings. This reduction in compensation is quite substantial--for example, a 60% disabled unemployable veteran with a spouse and two minor children would be reduced from $1,424 per month to $560 per month--however, the remuneration from employment plus the reduced rate of compensation does represent an overall increase in family income.

As the members of the Committee might imagine, there are cases where some such veterans have found, in a manner of a few weeks or months, that they cannot maintain gainful employment. In such cases, their unemployability status and total rate of compensation payment must be reapplied for and, by no means, is automatically reinstated. The VA may require a new medical examination and/or evidence from the former employer that these veterans could not function in their job due to their service-connected disabilities. Obviously, there are cases where the authorities of local jurisdiction may deny reinstatement of the unemployability status and such decisions, if appealed, may be upheld by the VA's Board of Veterans Appeals.

From the above, Mr. Chairman, you and the members of the Committee can well understand that the decision of an unemployable veteran to attempt to reenter the job market is not taken lightly. Given the possibility that such an attempt might end in failure and reinstatement of unemployability status might be delayed or denied, understandably, many veterans may well chose not to make the initial effort.

The pending legislation, in our opinion, would allay such fears and encourage veterans, whenever possible, to attempt to become gainfully employed.

The proposed nine month trial work period during which time the total rate of disability compensation payment would continue would act as an incentive to veterans who have the desire and/or opportunity to become gainfully employed. The inability to maintain gainful employment, if manifested, would most likely occur within the nine month trial work period and, in such event, the total rate of payment would continue, having never been interrupted.

Mr. Chairman, of the 2.2 million veterans presently on the disability compensation rolls, over 220,000 are in receipt of the 100% rate of payment due to total and permanent disability. Of this latter figure, 85,591 veterans receive the total rate of payment due to unemployability. As stated previously, the proposed change of law would act as an incentive to attempt to return to work. Whether the number of such veterans who would be able to successfully reenter the job market would be substantial or moderate, in all cases, federal dollars would be saved. In no event would the proposed change of law require increased federal expenditures.

Mr. Chairman, we urge favorable consideration of this proposal by the Committee.

## Six Month Extension in the Emergency Job Training Act of 1983

Also included on the hearing agenda this morning is a draft bill of Senator Cranston's entitled, "The Emergency Veterans' Job Training Extension Act of 1984."

Through appropriate amendment of Public Law 98-77, the Emergency Job Training Act of 1983, this measure proposes:

1. that Certificates of Eligibility issued 30 days after date of enactment shall expire 90 days after issue (presently, Certificates expire 60 days after issue);

2. that amounts appropriated for Public Law 98-77 shall remain available until September 30, 1987 (presently such amounts shall remain available until September 30, 1986); and

3. that veterans may apply for assistance through May 31, 1985 (a six month extension) and training programs may commence up to September 1, 1985 (an eight month extension).

Mr. Chairman, the DAV strongly supported the provisions of Public Law 98-77 at the time of their consideration by the Congress. While substantial numbers of Certificates of Eligibility have been issued (over 146,000), to date, employer participation has been less than satisfactory, enabling only a portion of eligible veterans to obtain job placement (7,423). Hopefully, employer participation shall improve, enabling the program to achieve its objectives--the provision of meaningful job opportunities for unemployed Korean Conflict and Vietnam Era veterans.

Mr. Chairman, we do favor Congressional enactment of the provisions of this measure.

## Veterans Administration Legislative Proposals

Mr. Chairman, the final items cited for the hearing agenda this morning are two legislative proposals submitted by the Veterans Administration.

They are:

1. an appropriate amendment of Section 3201(b)(1), Title 38, USC, to exclude from consideration in computing the estates of incompetent, institutionalized veterans the value of such veterans' homes if it appears reasonably certain that such veterans may again reside in such homes; and

2. an appropriate amendment of Section 3012(b), Title 38, USC, to change the effective date for reduction or discontinuances of benefits based upon school attendance of a payee or payee's dependent from the last day of the month in which school attendance occurred to the last day of school attendance.

Mr. Chairman, the DAV has no official position on these proposals, having received no legislative mandates concerning them from the delegates to our most recent National Convention.

## S. 1371

Mr. Chairman, though you did not cite S. 1371 in your letter of invitation to testify, the DAV does wish to direct your attention to our (continued) interest in this bill.

This measure, which was introduced in the Senate last year by Senator Randolph, proposes to add the disease of systemic lupus erythematosis to the list of chronic diseases now specified in Section 301(3) of Title 38, USC.

I shall not at this time present our arguments in favor of this objective for, as I am sure you will recall, the measure was given hearing consideration by your Committee last year and our views are of record. You will also recall that considerable interest and support was demonstrated for the bill by your Committee--in fact, six members of the Committee (one-half of its membership) voted in favor of adding the provisions of S. 1371 to the disability compensation increase legislation recently enacted into law.

As I am sure you are aware, the House Veterans Affairs Committee has also demonstrated an interest on this subject. A bill similar to S. 1371 has been given hearing consideration by that Committee and, in fact, a lupus provision is contained in H.R. 5688, the Veterans Compensation Amendments for Fiscal Year 1985, which was just passed by the full House of Representatives on June 18, 1984. Also, I think it pertinent to bring your attention to the fact that the VA's Advisory Committee on Women Veterans, in a report now in the process of being forwarded to the VA Administrator, is recommending that systemic lupus erythematosis be added to the list of chronic conditions in Section 301(3), Title 38, USC.

In view of the recent House action and the sentiments expressed by the VA's Advisory Committee on Women Veterans, we urge you and the members of this Committee to favorably reconsider S. 1371.

* * *

This completes my statement, Mr. Chairman. Again, I wish to express our thanks for being provided the opportunity to present our views on these important subjects.

Chairman SIMPSON. And now Bob Moran.

Mr. MORAN. Thank you, Mr. Chairman.

It is a privilege for me to appear today and present the views of Paralyzed Veterans of America.

Initially, I want to extend PVA's appreciation to the committee and the staff for your ongoing efforts to improve the effectiveness of these most important programs. And due to the time I will only address three issues being discussed here today.

PVA has always supported a viable compensation program to care for service-connected disabled veterans and their families. Compensation is for many of PVA's members extremely important, because for the catastrophically service-connected disabled veterans, it remains their primary source of income.

It is PVA's position that the annual increase in compensation must be commensurate with increases in the Consumer Price Index. The House has recommended a 4.3-percent increase, this committee has recommended a 4.7-percent increase.

We only ask that during your considerations that the most current economic conditions be assessed and the cost-of-living allowance for compensation programs adequately reflect the effects of inflation.

We would like to thank the committee for providing the effective date of increases as being December 1, 1984.

Regarding the Dependency and Indemnity Compensation Program, which cares for service-connected disabled veterans' survivors, we remain discontented by the awarding of DIC based on military pay grade rather than on the veteran's degree of disability.

PVA understands the rationale for awarding benefits based on military pay grade when a serviceman dies while in active military service. However, when service-connected disabled veterans die from service-connected causes years after termination of military service, there is little or no correlation for using military pay grade as the basis for computing DIC benefit for a surviving spouse.

PVA proposes that the formula for computing surviving spouses' DIC rate be established at 75 percent of the deceased veterans' monthly compensation benefit.

In reference to veterans' compensation, PVA strongly supports S. 2759, legislation which is a new and innovative approach toward encouraging disabled veterans to enter or reenter the work force.

As we understand, this legislation simply provides a 9-month trial work period to determine if employment is feasible. And when and if the veteran exceeds the 9-month trial work period, their compensation lowers to the original disability rate before the added amount for unemployability.

PVA has been one of the more vocal advocates encouraging our Nation's disabled veterans to seek gainful employment. For example, we have worked closely on a bill originally introduced as H.R. 5442 and now consolidated in the House compensation bill, which provides the same humane concept and cost-effective approach as S. 2759 for the non-service-connected disabled veteran. This bill is a 5-year pilot program which provides vocational training assistance to the disabled veteran in that with the hope of additional education, employment in a field more suited to him since becoming disabled can become reality.

The VA and the House Committee on Veterans' Affairs have compiled statistics which indicate the program as being cost-effective.

Both of these important and innovative pieces of legislation will, for the first time in the history of the service-connected and the non-service-connected disability programs, address the issue of work disincentives. Individuals with disabilities which once were a virtual guarantee of permanent unemployability, are now being viewed as having employment potential.

It is refreshing to see legislation such as this which saves the Government money while compassionately and humanely meeting the needs of the agency's constituency.

Thank you, Mr. Chairman. This concludes my statement.

Chairman Simpson. Thank you very much.

[The prepared statement of Bob Moran, associate legislative director, Paralyzed Veterans of America, follows:]

PVA
PARALYZED
VETERANS
OF
AMERICA
CHARTERED BY THE CONGRESS OF THE UNITED STATES

PREPARED STATEMENT OF
BOB MORAN, ASSOCIATE LEGISLATIVE DIRECTOR
PARALYZED VETERANS OF AMERICA
BEFORE
THE SENATE COMMITTEE ON VETERANS' AFFAIRS
CONCERNING
S. 2736, S. 2737, S. 2267, S. 2268, S. 2451, S. 2759, S. 2760
AND A VETERANS' ADMINISTRATION LEGISLATIVE PROPOSAL
JUNE 27, 1984

Mr. Chairman and Members of the Committee, it is a privilege and pleasure for me to appear today and present the views and concerns of Paralyzed Veterans of America regarding the various legislation and legislative proposal being addressed here today. I am Bob Moran, Associate Legislative Director of PVA.

Initially, I want to extend PVA's appreciation to you Mr. Chairman and the Members of this Committee, for your ongoing efforts to improve the effectiveness of these most important programs that directly affect our members and for allowing PVA to testify and work with you in this most important endeavor.

## VETERANS' ADMINISTRATION COMPENSATION PROGRAMS

## S. 2736

PVA has always supported a viable compensation program to care for service-connected disabled veterans and their families. Compensation is for many of PVA's members extremely important, because for many catastrophically disabled veterans, it remains their primary source of income. Therefore, service-connected disability compensation and dependency and indemnity compensation benefits should be adjusted each year to offset erosion caused by inflation.

It is PVA's position that annual increases in compensation rates must be commensurate with increases in the Consumer Price Index. This year the House has recommended an increase of 4.3 percent based on their economic projections, and this Committee has recommended a 4.7 percent increase. We cannot determine which of the two proposed rates of increase is most correct. We only ask that during your considerations that the most current economic conditions be assessed and that veterans be protected from the destructive effects of inflation. We would like to thank you, Mr. Chairman and Members of the Committee for providing, as agreed to last year, that the effective date of increases be December 1, 1984.

Regarding the Dependency and Indemnity Compensation (DIC) program, which cares for the service-connected disabled veterans' survivors, we remain discontented by the awarding of DIC benefits based on military pay grade rather than on the veteran's degree of disability.

PVA understands the rationale for awarding benefits based on military pay grade when a serviceman dies while in active military service. However, when service-connected disabled veterans die from service-connected causes years after termination of their military service, we believe, and have testified on numerous occasions, that there is little or no correlation for using military pay grade as the basis for computing the DIC benefit for a surviving spouse.

It is well recognized that the cost of continuous attendant care can greatly exceed the maximum aid and attendance allowance (A&A) given for service-connected disabilities. Furthermore, as is often the case, the spouse of a severely disabled veteran provides the extensive care needed by the veteran because of his service-connected disability.

The result is that despite a helpful A&A allowance, the spouses of service-connected disabled veterans often must provide daily time-consuming services which these veterans cannot obtain or provide for themselves. Spouses' services produce great savings for the government in situations where, without their assistance, veterans otherwise would require institutional care. This savings, reflected by in-home care provided by the spouse, cannot be overemphasized, especially when considering the astronomical cost of medical care today.

Most veterans, especially those who served in wartime, were not careerists but were citizen soldiers who simply answered their nation's call to duty. Consequently, the majority served in the lower military pay grades, where debilitating injuries were most prevalent. Basing DIC on military pay grade, not on the degree of disability, therefore leaves many surviving spouses with inadequate benefits after the death of the veteran. This happens despite the service rendered to the nation, both by the veteran and by the surviving spouse who had assisted the veteran in living a meaningful life, free from costly institutions.

Upon becoming widowed, a surviving spouse who receives DIC may be willing to seek employment, but in many cases she would not have marketable skills (due to the constant care that she provided the veteran until his death). In addition, the spouse often must seek employment at an unrealistic and most difficult time in life, a time when others of comparable age are beginning their retirement.

PVA proposes that the formula for computing surviving spouses DIC rate be established at 75 percent of the deceased veteran's monthly compensation benefit, excluding the portion paid for the veteran's aid and attendance. PVA must emphasize that present beneficiaries must not be harmed by any amendment of the DIC program. That is, existing beneficiaries should be "grandfathered" under the current law, if it is not to their benefit to elect DIC payments under the new rate structure.

## Service-Connected Trial Work Period

### S. 2759

In reference to veterans compensation, I would like to comment on and commend the distinguished Senator from California, Mr. Cranston, for the legislative proposal providing a trial work period for those veterans assigned total service-connected disability due to reasons of unemployability. PVA strongly supports S. 2759, legislation which is a new and innovative approach towards encouraging disabled veterans to enter or reenter today's work force.

As we understand, this legislation simply provides a 9 month trial work period, which can be used over a collective period of time to determine if employment is feasible. When and if the veteran exceeds the 9 month work-period, their compensation lowers to the original disability rate before the added unemployability factor. If unemployment again becomes reality, the veteran reapplies for the added increase as was necessary during the initial application. It must be emphasized that no other criteria or penalty should exist for these veterans who reapply after attempting employment.

PVA has been one of the more vocal advocates encouraging our Nation's disabled veterans to seek gainful employment. For example, we have worked closely on a bill originally introduced as H.R. 5442 and now consolidated in the House compensation bill, (H.R. 5688), which provides the same humane concept and cost-effective approach as S. 2759, for the non-service-connected disabled veteran. This bill, a five year pilot program, provides vocational training assistance to the disabled veteran, in the hope that with additional education, employment in a field more suited to him can become reality.

PVA has, for years, maintained that certain VA disability programs contain built-in work disincentives which have led to unnecessary government expenditures and loss of considerable human talent from America's work force. Since in large part NSC pension eligibility is based upon age, the existing program is designed to serve the needs of older veterans. As a result, very little attention has been given the pension recipient under the age 65. The existing pension program is built upon the archaic attitude that society has an obligation to "take care of" disabled persons. It has been assumed that disabled individuals are unable to provide for any of their own financial independence.

This new section, (H.R. 5688, Sec. 202) added to veterans' benefits would make vocational training available for new and younger pensioners with the purpose of rehabilitating these severely disabled wartime veterans who have suffered crippling injuries or diseases after their military service. The veterans would be paid, without delay, whatever pension they are eligible for under existing law. The VA would counsel only those veterans who are determined medically feasible to possibly pursue a course of training. After counseling, the decision to enter the program is up to the veteran; if he opts not to enter the program, his full pension benefits continue without any restrictions. If a veteran decides to enter the program, the VA works with him to select a vocational course aimed at placing him in a self-supporting job.

The VA and the House Committee on Veterans' Affairs have both compiled statistics which indicate the program as being cost-effective. On May 17, 1984, before the House Subcommittee of Compensation, Pension, and Insurance, Chairman Applegate stated: "It is a cost-effective measure which will pay for itself by the third year." In a letter dated May 22, 1984, to the Honorable G.V. (Sonny) Montgomery, Administrator Walters indicated with enactment of H.R. 5442, (now H.R. 5688) that projections suggest a progressively favorable benefits cost/savings ratio during the first 5 years.

Both of these important and most innovative pieces of legislation, S. 2759 and H.R. 5688 will, for the first time in the history of the service-connected and non-service-connected disability programs, address the issue of work disincentives. While S. 2759 provides the service-connected veterans a trial work period, H.R. 5688 provides non-service-connected veterans, vocational training opportunities, with both aimed at the ultimate goal of full-time employment. Both bills would greatly encourage the transition to employment by continuing eligibility for certain VA benefits during the initial stages of employment.

PVA strongly supports the concept contained within these legislative proposals. We view each as a positive step in creating new programs to rehabilitate disabled veterans. Furthermore, each attempts to eliminate many unnecessary obstacles that impede seriously disabled veterans who desire to return to gainful employment, whether they are service-connected or non-service-connected disabled.

Society has, due to increased public awareness, improved technologies, and medical advancements, modernized some of the earlier held attitudes toward the disabled. Individuals with disabilities, which were once a virtual guarantee of permanent unemployability, are now being viewed as having employment potential. This change is now evidenced by the disabled population participating more fully and actively in American society.

In this day of constricted resources and burgeoning demand by competing sectors of the nation for scarce budget dollars, it is refreshing to see legislation such as S. 2759 and H.R. 5688, which saves the government money while compassionately and humanely meeting the needs of the agency's constituency.

## VETERANS' READJUSTMENT APPOINTMENTS

## S. 2268

The Veterans' Readjustment Appointments authority provides improved employment opportunities for the Vietnam Era veteran. PVA supports S. 2268, legislation which seeks to extend for 3 years this authority. We are pleased to see this type of consideration being given for the purpose to promote and extend maximum employment and job advancement opportunities within the federal government. This extension becomes most important when realizing the employment difficulties being experienced by large numbers of veterans, especially Vietnam Era veterans, and even more so, by disabled veterans.

## EMERGENCY VETERANS' JOB TRAINING EXTENSION ACT OF 1984

## S. 2760

Directly related to veterans' employment and of a concern to PVA is the Emergency Veterans' Job Training Act, S. 2760. This bill extends the period of time during which an eligible veteran may apply for a program of job training and postpones the date for which a program must begin. Again, I express PVA's pleasure in seeing legislation which extends eligibility dates, so as to assist veterans in becoming employed. We are pleased to see the 30 day extension, (60 to 90 days), of the veteran's certificate of eligibility.

This extension is needed due to the mechanics involved in the VA processing, and the short time left for the veteran to actually use the certificate, that more often it becomes apparent for reapplication. This small refinement in the certificate eligibility dates should help enhance the veterans use of the program and simplify the administration of the program.

## VETERANS ADMINISTRATION EDUCATIONAL PROGRAMS

## S. 2737

PVA supports S. 2737, which increases the rates of subsistence and educational allowances for veterans and their dependents within various educational programs administered by the VA. This increase of 10 percent is greatly needed to offset the ever increasing cost of today's educational pursuits, and most importantly when keeping in mind that the last adjustment in VA educational program allowances was made over 2½ years ago.

Educational assistance programs for veterans have proven to be among the most beneficial and cost-effective programs administered by the VA. Since the first G.I. bill, approximately 20 million veterans have utilized some type of VA educational program to successfully make the transition from military to civilian life, to enhance their career potential and to achieve employment goals. The costs of these programs have been repaid by veterans through their increased productivity and improved earnings capacity, all of which have resulted in added tax receipts to the U.S. Treasury.

PVA believes that no other program has contributed more to the lifelong welfare of America's veterans, their families and our country than veterans' education and training programs.

## AUTOMOTIVE ASSISTANCE GRANTS

## S. 2267

Mr. Chairman, PVA supports S. 2267 which would increase the maximum automotive assistance grant from its current level of $4,400, to $4,840. It should be noted that the $440 amount is greatly needed if the VA grant is to keep pace with the rising costs of automobiles. In fact, Mr. Chairman and Members of the Committee, the needed increase in this grant would have to be nearly three times the amount, or approximately $1,300 to fully allow the veteran to keep pace with escalating new car prices and the eroding value of the dollar.

We have compiled a cost table, which compares new car prices in 1981, (the last time the basic automobile grant was adjusted) to today's 1984 new car prices. These comparisons are presented as Appendix "A".

As clearly illustrated by this table, the average automobile price, based upon the current list prices of sixteen popular models of American cars, is now $10,494, as compared to $8,270 for similarly-equipped models in 1981. This translates into an average price increase of 26.9 percent, while S. 2267 proposes a modest 10 percent increase. Therefore, PVA feels, that Congress and the Administration should not present any opposition to passage of S. 2267.

From a historical perspective the automobile allowance grant, first established in 1946, has not kept pace with the rising prices of new automobiles. The original allowance of $1,600 has been adjusted only four times over the 38-year history of the grant program.

The first adjustment to the basic grant did not occur until January 11, 1971, (Public Law 91-966), yet this adjustment increased the grant 75 percent, to a new level of $2,800. On the other hand, all subsequent grant adjustments made since 1971, (1975, 1978, and 1981), have amounted to only a 57 percent increase. This is extremely disconcerting, when realizing that new car prices have nearly doubled since 1970. (Based upon Consumer Price Indexes of 107.6 (1970) to 197.5 (May 1982) for new automobiles. Statistical Abstract of the United States 1982-83, U.S. Department of Commerce, Bureau of the Census.)

Examples of the diminished purchasing power of the basic automobile allowance have been pointed out by PVA's National Service Officers. They indicate that recently several service-connected disabled veterans eligible for the basic automotive grant have been forced, because of higher new car prices, to purchase used vehicles. Because of this, the end result for these veterans will be higher costs arising from automobile maintenance. More importantly, they will be burdened by a less dependable vehicle with a shorter useful life. It is of significant concern to PVA and our seriously disabled members, who are very dependent upon their specially adapted vehicles, that this practice is being reported. We can only attribute this practice as stemming from the inadequate adjustments being made in the basic automobile grant allowance.

It should be noted that as the current trend toward smaller cars continues, many disabled veterans are finding that they have to purchase larger, more costly models in order to accommodate their physical disabilities. This results in higher initial out-of-pocket cost to these veterans and, subsequently, higher operating costs for insurance; gasoline; overall maintenance; and, in some states, license plate renewals.

Therefore, Mr. Chairman, PVA would encourage this Committee to reevaluate the proposed $440 increase in the automobile allowance grant, and to amend it to $1,300, so that further deterioration of this much needed assistance does not occur.

## VETERANS' ADMINISTRATION HOUSING PROGRAMS

## S. 2451

### Home Loan Guaranty

PVA supports S. 2451, a bill which would provide an increase in the maximum amount of Home Loan Guaranty provided by the VA: S. 2451 would increase it from the present level of $27,500 to $35,000. The VA "Home Loan Guaranty" is an entitlement program, for each veteran, who meets the requirements as provided by statute, being eligible for the guaranty of a portion of his mortgage.

Since its inception in June 1944, the VA Home Loan Guaranty Program has assisted over 11 million veterans and their families in gaining suitable housing. It has been one of the most successful housing programs in this nation's history, and despite the size of the program it has cost the Federal government very little. Without doubt, the VA Home Loan Guaranty Program has been a good investment in America, providing stability and expanding the tax base of nearly every community in our country.

PVA appreciates the attentiveness of this Committee in considering this increase in the maximum amount of the home loan guaranty. The increase reflects the rising cost of suitable and affordable housing for veterans and their families.

## Special Adapted Housing Grant

PVA strongly supports other language contained in S. 2451, a provision which increases (from $32,500 to $38,000) the maximum amount of assistance in the special housing needs of service-connected disabled veterans.

It is an understatement to say that the cost of housing has increased dramatically. The average cost of a new specially adapted home in 1976 was $57,000, but today that same house costs over $90,000. Through the specially Adapted Housing Grant Program, the VA provides certain severely disabled veterans with a vehicle by which they can begin to restore their lives to ones of independence and dignity. In previous testimony, PVA has emphasized the importance of providing catastrophically disabled veterans with opportunities to rebuild their lives to the fullest extent possible.

## Special Adaptive Housing Allowance

Frequently, an eligible veteran chooses not to utilize the Special Adapted Housing Grant, but elects to purchase existing new or used housing. At the present time, most homes are not built to accommodate disabled persons. Consequently, older homes usually must be remodeled so that they will be accessible. And, since few new home plans are barrier-free certain structural alterations are often necessary at additional costs. These modifications are needed to make these homes appropriate residences for disabled veterans. This is just one of the many costly problems a catastrophically disabled veteran faces as he readjusts to life; therefore, PVA supports the provision increasing the allowance from $5,000 to $6,000 for adapting existing homes for accessibility by disabled veterans.

## Manufactured Housing

Also, contained in S. 2451, is language concerning manufactured housing. PVA's members wish they could avail themselves of some of the manufactured housing units currently available, but because of the extensive modifications usually required to make such a housing purchase wheelchair accessible, the opportunities are few and the cost savings are negated. Nonetheless, PVA recognizes the growing importance of such housing for an increasing number of veterans, and we therefore support the intent of this legislation in raising the maximum guaranty limit available to $22,000.

## VETERANS' ADMINISTRATION LEGISLATIVE PROPOSAL

Finally, in addressing the issue of exclusion of value of the institutionalized, incompetent veteran's home, in determining the value of the veteran's estate for benefit payment purposes, PVA has no objection to this amendment. We would like to encourage the Committee to work with the VA in taking a closer look, not only in this aspect, but in other areas relating to estate values. One example would be the current policy whereby a veteran's estate value may not exceed a $1,500 limit, at which time benefits are stopped until the estate value is reduced to $500. PVA views this policy as being overly restrictive.

Mr. Chairman, Paralyzed Veterans of America is grateful for the efforts that have gone into conducting this hearing today. We appreciate the concern for the nation's veterans which is held by you, by Members of the Committee, and by this Committee's capable and cooperative staff. This concern has been revealed here, today, by the willingness to address and examine these various programs for veterans, their survivors and dependents.

Mr. Chairman and Members of the Committee, on behalf of the members of PVA, I appreciate your invitation to present our views and recommendations and your attentiveness to the concerns which I have expressed during this presentation. This concludes my statement, and I will be glad to answer any questions that I can.

# APPENDIX A

Testimony of Paralyzed Veterans of America as presented June 20, 1984, before the Senate Committee on Veterans' Affairs.

| Make & Model | 1981 List Price* | 1984 List Price* |
|---|---|---|
| Buick | | |
| Century | $ 7,999 | $ 10,520 |
| Electra | 10,368 | 13,167 |
| Chevrolet | | |
| Monte Carlo | 8,006 | 10,700 |
| Impala Caprice | 7,990 | 9,253 |
| Oldsmobile | | |
| Cutlass | 7,968 | 9,376 |
| Delta 88 | 7,525 | 10,051 |
| Ninety-Eight | 10,440 | 13,974 |
| Pontiac | | |
| Bonneville | 8,580 | 9,835 |
| Grand Prix | 7,803 | 10,299 |
| Ford | | |
| LTD | 7,607 | 9,102 |
| Thunderbird | 7,551 | 9,633 |
| Mercury | | |
| Cougar | 6,694 | 9,978 |
| Marquis | 8,601 | 11,576 |
| Chrysler | | |
| New Yorker | 10,643 | 12,200 |
| Le Baron | 7,263 | 9,067 |
| Dodge | | |
| Diplomat | 7,268 | 9,180 |
| Average List Price | $8,270 | $10,494 |

*All figures are rounded dollar amounts for standard equipped 2-door units. Information was obtained from the following sources:

1981 - New Car Prices, Edmund Publications Corporation.

1984 - Edmunds New Car Prices, Dell Publications, June 1984.

Chairman **Simpson**. Now Mr. Weidman, please. Rick Weidman.

Mr. **Weidman**. Mr. Chairman, thank you for the opportunity to present the views of Vietnam Veterans of America here today. I am not going to try and equal Paul Egan's performance, because I think it was rather remarkable and unduplicable, at least by me.

I would just like to comment on one issue and let my testimony stand as it is on the other issues. That has to do with the raising of the VA home loan mortgage from the $27,500 current level to $35,000. We believe that this is a step in the right direction, but it is only a first step if, in fact, this program is going to be safeguarded.

We would suggest to you, Mr. Chairman, that it is no accident that the request for the supplemental appropriation needed to keep the revolving fund going at the VA Home Loan Mortgage Guaranty Program has not yet been sent over to the Congress, and yet this program is in great jeopardy of running out of money this coming month—July.

We would suggest that there need to be some structural changes to help the program as it is function better and, more importantly, to safeguard it, because the attempt to change the program materially that was made on February 1 of this year will be repeated unless there is action by this committee soon.

Thank you.

Chairman **Simpson**. Thank you very much.

[The prepared statement of Richard F. Weidman, director of government relations, Vietnam Veterans of America, follows:]

## PREPARED STATEMENT OF RICHARD F. WEIDMAN, DIRECTOR OF GOVERNMENT RELATIONS, VIETNAM VETERANS OF AMERICA

Good morning, Mr. Chairman. My name is Richard Weidman, and I serve as Director of Government Relations of Vietnam Veterans of America. Vietnam Veterans of America (VVA) wishes to thank you and your honored colleagues for the opportunity to present VVA's views on the matters before the Committee on Veterans Affairs this morning.

Vietnam Veterans of America favors enactment of S.2267, to increase the maximum amount of the automobile assistance grant provided to certain severely, service-connected disabled veterans. Similarly, VVA favors enactment of S. 2736, to increase the rates of disability compensation for disabled veterans and to increase the rates of dependency and indemnity compensation for surviving spouses and children of veterans; and for other purposes. These bills would move toward increases that would keep pace with inflation and help keep these vitally needed programs viable in today's economy.

In that June of 1984 has become known as "Hire a Vet" month, there is no more appropriate time to move enactment of S.2268. Vietnam Veterans of America fully endorses the extension of authority for veterans readjustment appointments until 1987. VVA recognizes and lauds the efforts of the Office of Personnel Management to increase the frequency of use of VRA in the past two years. However, there is much to be done in encouraging office managers, site directors, and local personnel officers to make full use of the veterans readjustment appointments program and of the Disabled Veterans Affirmative Action Program (DVAAP), as well as fully honoring in practice the rectitude of the concept of veterans preference.

Mr. Chairman, Vietnam Veterans of America favors passage of S.2737, to increase the rates of subsistence end educational assistance allowances for veterans pursuing vocational rehabilitation programs under Chapter 31 and for veterans and eligible persons pursuing programs of education or training under

Chapters 34, 35, or 36; and for other purposes. VVA believes that this increase is necessary to maintain this program at a reasonable and viable level, particularly in light of the diminution of other student aid programs. I would also draw the Committee's attention to Resolution V-8, passed by the VVA National Convention last November, which reads in part, "Resolved, that the Vietnam Veterans of America seek the elimination of any delimiting date regarding utilization of G.I. Bill (educational) benefits."

As you know, Mr. Chairman, the majority of Vietnam veterans have gone past their delimiting date, and thus are no longer eligible to receive assistance except under vocational rehabilitation. We would hope that there will be an opportunity in the near future to make the case that it is in the national interest to eliminate the delimiting date. VVA believes that educational allowance entitlements are an investment in America's future as well as hard won benefits for our nation's wartime veterans.

Vietnam Veterans of America favors enactment of S.2451, to increase the maximum amounts of the Veterans' Administration specially adapted housing assistance grants provided to certain severely service-connected disabled veterans and the maximum amounts of Veterans' Administration home loan guaranties. VVA believes that the increases in the specially adapted housing grants will help bring this program more in line with the realities of the marketplace, recognizing the rising costs of such construction.

Vietnam Veterans of America believes that raising the maximum loan guarantee to $35,000 from the current ceiling of $27,500 is a step in the right direction. However, VVA believes that further action is necessary to guarantee the viability of the VA Home Loan Guaranty program. First, as noted in testimony by Dennis Rhoades, Executive Director of VVA before this Committee on February 29, 1984, it is imperative that VA be mandated by the Congress to promulgate regulations, through the public rulemaking process, that would incorporate "Section F" of the "VA Lenders Handbook" into regulations governing the program.

Second, VVA recommends that VA be mandated to organize a special section of the Department of Veterans Benefits in every Regional Office to actively participate in administering "forebearance." We would reiterate what seems obvious to us, Mr. Chairman: that it is in everyone's interest to keep the veteran in vested possession of and residence in the home.

Third, VVA respectfully recommends that VA-vendor financing on already acquired property sales be extended only to veterans for a limited period of six months, after which the property would be made available on the open market, as a cash sale.

Fourth, Vietnam Veterans of America strongly recommends that the Committee consider sharply curtailing discretionary power of the VA to pay off the guaranteed amount rather than repossessing the home, to clearly and narrowly defined circumstances. It is no secret that this program has functioned as effectively as it has for almost forty years because it has been almost tantamount to a 100% guarantee, and because the groundrules of the program have been accepted as permanent and stable. A clear signal needs to be sent by the Congress to the lending community that the commitment to continuation of this vital program is just as strong today as it was in 1946.

Fifth, VVA respectfully recommends that the Committee consider addressing regional inequities in the program. There are great disparities in the cost of the average modest home, depending on the section of the country in which one lives. The average cost of a modest home in Wyoming is far less than a comparable home in most sections of California. The range of the amount of VA loans also varies widely from region to region, as a result. The average loan guaranteed out of the VARO in Washington, D.C. is the highest in the continental United States with a current average of $97,264. The average loan in Pittsburgh, PA., which is the lowest in the country, is $42,970. VVA believes that, given such a range, Mr. Chairman, consideration might be given to a 60% guarantee ceiling that is set according to the median VA loan in that VA Region. All of the factors used in such a system would be dependent on information readily available currently within the VA system, and would not pose any undue administrative burden on the agency, yet it would address and correct regional inequities.

In regard to the legislation which will soon be introduced by Senator Cranston which will provide a trial period of work for certain veterans with total disability ratings, I can state that Vietnam Veterans of America is in favor of this concept. As Resolution E-23, passed unanimously at the VVA National Convention, states (in part), "Whereas Vietnam Veterans of America believes that most disabled veterans wish to reassume their full productive place in society, and that it is a Federal responsibility to help provide the means for the disabled veteran to realize this goal, and not be placed in a (permanent) dependent situation."

*(3) by striking out "$52" and "$41" in clause (C) and inserting in lieu thereof "$54" and "$43", respectively;*

*(4) by striking out "$62" in clause (D) and inserting in lieu thereof "$65";*

*(5) by striking out "$139" in clause (E) and inserting in lieu thereof "$146"; and*

*(6) by striking out "$116" in clause (F) and inserting in lieu thereof "$121".*

### *CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS*

*SEC. 103. Section 362 is amended by striking out "$338" and inserting in lieu thereof "$354".*

### *DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES*

*SEC. 104. (a) Subsection (a) of section 411 is amended to read as follows:*

*"(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:*

| *"Pay grade* | *Monthly rate* | *"Pay grade* | *Monthly rate* |
|---|---|---|---|
| *E-1* | *$483* | *W-4* | *$692* |
| *E-2* | *497* | *O-1* | *610* |
| *E-3* | *509* | *O-2* | *630* |
| *E-4* | *542* | *O-3* | *674* |
| *E-5* | *557* | *O-4* | *713* |
| *E-6* | *570* | *O-5* | *786* |
| *E-7* | *598* | *O-6* | *886* |
| *E-8* | *630* | *O-7* | *958* |

| | | | |
|---|---|---|---|
| E-9 | [1] 659 | O-8 | 1,050 |
| W-1 | 610 | O-9 | 1,128 |
| W-2 | 636 | O-10 | [2] 1,234 |
| W-3 | 653 | | |

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $710.

"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,324."

*(b) Subsection (b) of such section is amended by striking out "$53" and inserting in lieu thereof "$55".*

*(c) Subsection (c) of such section is amended by striking out "$139" and inserting in lieu thereof "$146".*

*(d) Subsection (d) of such section is amended by striking out "$68" and inserting in lieu thereof "$71".*

### *DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN*

*SEC. 105. Section 413 is amended—*

*(1) by striking out "$233" in clause (1) and inserting in lieu thereof "$244";*

*(2) by striking out "$334" in clause (2) and inserting in lieu thereof "$350";*

*(3) by striking out "$432" in clause (3) and inserting in lieu thereof "$452"; and*

*(4) by striking out "$432" and "$87" in clause (4) and inserting in lieu thereof "$452" and "$91", respectively.*

### *SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN*

*SEC. 106. Section 414 is amended—*

*(1) by striking out "$139" in subsection (a) and inserting in lieu thereof "$146";*

*(2) by striking out "$233" in subsection (b) and inserting in lieu thereof "$244"; and*

*(3) by striking out "$118" in subsection (c) and inserting in lieu thereof "$124".*

### *EFFECTIVE DATE*

*SEC. 107. Except as provided in section 108, sections 101 through 106 shall take effect on December 1, 1984.*

### *ALTERNATIVE RATE INCREASES*

*SEC. 108. (a)(1) If the percentage of the increase in benefit amounts under title II of the Social Security Act that will take effect on December 1, 1984, as a result of a determination under section 215(i) of such Act is not 4.7 percent—*

*(A) sections 101 through 106 shall not take effect; and*

*(B) the Administrator of Veterans' Affairs shall (i) compute alternative increased rates and limitations that are equal to those that would be arrived at by increasing, by the same percentage as the percentage by which such benefit amounts will thus be increased, each dollar amount that would have been increased by*

*the amendments that would have been made by such titles, and (ii) effective December 1, 1984, pay benefits under chapters 11 and 13 of title 38, United States Code, in accordance with such alternative increased rates and limitations.*

*(2) In the computation of alternative increased rates and limitations pursuant to subsection (a), amounts of $.50 or more shall be rounded to the next higher dollar amount and amounts of less than $.50 shall be rounded to the next lower dollar amount.*

*(b) The Administrator may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85–857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.*

*(c) If, under subsection (a), the Administrator is required to compute alternative increased rates and limitations, the Administrator shall publish in the Federal Register, at the same time as the material required by section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) is published by reason of a determination under section 215(i) of such Act, such alternative increased rates and limitations and the dollar amounts that would have*

*been increased by the amendments that would have been made by sections 101 through 106.*

### *PART B—COMPENSATION PROGRAM AMENDMENTS*

#### *TRIAL WORK PERIOD PILOT PROJECT*

*SEC. 110. (a)(1) Subchapter VI of chapter 11 is amended by adding at the end the following new sections:*

***"§ 363. Trial period of work for certain veterans with total disability ratings***

*"(a) Subject to subsections (c) and (f) of this section, for the purposes of determining whether an unemployable veteran has regained the ability to secure or follow a substantially gainful occupation, any activity performed for remuneration or gain by such veteran (or any activity performed by such veteran that is determined by the Administrator to be activity of a type normally performed for remuneration or gain) during a period of trial work shall be deemed not to have been performed by such veteran during such period.*

*"(b) If the amount of income earned by a veteran who has completed a period of trial work pursuant to subsection (a) of this section and whose compensation has been reduced is less than $300 in any month during the 12-month period beginning with the month such reduction took effect—*

*"(1) such veteran's total disability rating shall be restored effective as of the first day of such month; and*

*"(2) the Administrator shall review the case and determine whether the veteran continues to be an unemployable veteran.*

*In the event that, upon completion of such a review, the Administrator determines that the veteran is no longer an unemployable veteran, the effective date of the resulting reduction in the veteran's compensation shall, notwithstanding section 3012(b)(6) of this title, be fixed in accordance with the facts.*

*"(c)(1) In order for a period of trial work to apply in the case of an unemployable veteran, the veteran must, not later than the thirtieth day after the date on which the veteran begins to perform activity described in subsection (a) of this section, notify the Administrator in writing that the veteran desires or intends to perform such activity or has begun to perform such activity, as the case may be, and that the veteran desires to participate in a period of trial work.*

*"(2) A veteran may participate in no more than one period of trial work under this section.*

*"(d) The Administrator shall make available to each unemployable veteran, whether or not such veteran is participating in a vocational rehabilitation program under chapter 31 of this title, the counseling and services described in section 1504(a) (2) and (5) of this title. Upon receiving notification from an unemployable veteran under subsection (c)(1) of this section, the Administrator shall notify the veteran in*

*writing about the availability of such counseling and services.*

*"(e) For the purposes of this section:*

*"(1) The term 'period of trial work' means, in the case of an unemployable veteran, the 12-month period following the date on which the veteran begins to perform activity described in subsection (a) of this section in connection with the notice provided pursuant to subsection (c) of this section.*

*"(2) The term 'unemployable veteran' means a veteran who has a service-connected disability, or service-connected disabilities, not rated as total, but who meets the requirements for a total disability rating (other than a rating protected by the first sentence of section 110 of this title) by reason of inability to secure or follow a substantially gainful occupation as a result of such disability or disabilities.*

*"(f)(1) This section shall take effect on the first day of the fifth full month following the date of the enactment of this section.*

*"(2) No period of trial work shall apply in the case of a veteran unless such veteran has provided the notice required by subsection (c)(1) of this section and has performed activity described in subsection (a) of this section in at least 1 month, prior to the thirty-seventh month (or the forty-ninth month, if*

*the Administrator determines that it is in the best interests of veterans and the United States to extend such time) following the month that this section takes effect. The Administrator shall promptly notify the Committees on Veterans' Affairs of the House of Representatives and the Senate of any extension provided under the preceding sentence.*

### *"§ 364. Vocational rehabilitation for certain veterans with total disability ratings*

*"(a)(1) In the case of each award of a total disability rating that is made, on or after the first day of the fifth full month following the date of the enactment of this section, on the ground that the veteran is an unemployable veteran, the Administrator shall provide to the veteran, at the time that notice of the award is provided to the veteran, notice of the requirements of paragraph (2) of this subsection.*

*"(2) Each unemployed veteran who has been provided with notice pursuant to paragraph (1) of this subsection shall—*

*"(A) within 30 days after such notice is mailed to the veteran, submit an application for an evaluation under chapter 31 of this title, and*

*"(B) if determined to be eligible for such evaluation, cooperate in the conduct of the evaluation and, if the Administrator formulates a vocational rehabilita-*

*tion program for the veteran in accordance with the provisions of such chapter, pursue such program.*

*"(b)(1) If the Administrator determines that a veteran has failed to comply substantially with the requirements of subsection (a) of this section and does not determine that mitigating circumstances exist, the Administrator shall—*

*"(A) provide the veteran with notice that, unless the veteran resumes substantial compliance with such requirements within 60 days after the Administrator provided such notice (or such longer period as the Administrator determines is the shortest period within which it is reasonably feasible for the veteran to resume compliance), the Administrator will conduct a review of the determination that the veteran is an unemployable veteran and the noncompliance shall be considered in such review; and*

*"(B) unless the veteran has resumed such substantial compliance, conduct such review after such 60 days (or such longer period, if applicable) has expired.*

*"(2) In the event that, upon a review conducted pursuant to paragraph (1) of this subsection, the Administrator determines that the veteran is no longer an unemployable veteran, nothing in this subsection shall preclude a subsequent award of a total disability rating to the veteran.*

*"(c) For the purposes of this section, the term 'unemployable veteran' has the same meaning provided in section 363(e)(2) of this title.".*

*(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 362 the following new items:*

*"363. Trial period of work for certain veterans with total disability ratings.*
*"364. Vocational rehabilitation for certain veterans with total disability ratings.".*

*(b)(1) Beginning not later than 90 days after the date of the enactment of this Act, the Administrator of Veterans' Affairs shall provide to each veteran who has a service-connected disability, or service-connected disabilities, not rated as total, but who has a total disability rating (other than a rating protected by the first sentence of section 110 of title 38, United States Code) by reason of a determination of inability to secure or follow a substantially gainful occupation as a result of such disability or disabilities (A) information explaining the provisions of section 363 of title 38, United States Code (as added by subsection (a)(1)), (B) a description of the procedure for participating in a period of trial work pursuant to such section 363, (C) information explaining the purposes and availability of and eligibility for, and the procedures for participating in, vocational rehabilitation under chapter 31 of such title, and (D) a summary description of the scope of services and assistance available under that chapter.*

*(2) In the case of a veteran to whom notice is required to be provided under section 364(a)(1) of such title (as added by subsection (a)(1)), the notice required by paragraph (1) shall be provided together with such notice.*

*(c) Not later than 39 months after section 363 of title 38, United States Code (as added by subsection (a)(1)), becomes effective, the Administrator shall submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a report on the results of the first 3 years' implementation of that section, section 364 of such title (as also added by subsection (a)(1)), and subsection (b) of this section. The Administrator shall include in the report the Administrator's assessments of the value (including the cost-effectiveness) and effect of such implementation and any recommendations of the Administrator for administrative and legislative action based on such results and assessments.*

## *TITLE II—VETERANS' ADMINISTRATION REHABILITATION AND EDUCATION PROGRAMS*

### *PART A—RATE INCREASES*

### *RATES OF REHABILITATION SUBSISTENCE ALLOWANCES FOR SERVICE-CONNECTED DISABLED VETERANS*

*SEC. 201. The table contained in section 1508(b) is amended to read as follows:*

| *"Column I* | *Column II* | *Column III* | *Column IV* | *Column V* |
|---|---|---|---|---|
| *Type of program* | *No dependents* | *One dependent* | *Two dependents* | *More than two dependents* |
|  |  |  |  | *The amount in column IV, plus the following for each dependent in excess of two:* |
| *Institutional training:* |  |  |  |  |
| *Full-time* | *$310* | *$384* | *$452* | *$33* |
| *Three-quarter time.* | *233* | *288* | *339* | *25* |
| *Half-time* | *155* | *193* | *227* | *17* |
| *Farm cooperative, apprentice, or other on-job training:* |  |  |  |  |
| *Full-time* | *271* | *327* | *377* | *24* |
| *Extended evaluation:* |  |  |  |  |
| *Full-time* | *310* | *384* | *452* | *33* |
| *Independent living training:* |  |  |  |  |
| *Full-time* | *310* | *384* | *452* | *33* |
| *Three-quarter time.* | *233* | *288* | *339* | *25* |
| *Half-time* | *155* | *193* | *227* | *17".* |

### *RATES OF GI BILL EDUCATIONAL ASSISTANCE FOR VETERANS*

*SEC. 202. Chapter 34 is amended—*

*(1) by amending the table contained in paragraph (1) of section 1682(a) to read as follows:*

| "Column I | Column II | Column III | Column IV | Column V |
|---|---|---|---|---|
| Type of program | No dependents | One dependent | Two dependents | More than two dependents |
| Institutional training: | | | | The amount in column IV, plus the following for each dependent in excess of two: |
| Full-time | $376 | $448 | $516 | $32 |
| Three-quarter time. | 283 | 336 | 383 | 24 |
| Half-time | 188 | 224 | 255 | 17 |
| Cooperative | 304 | 355 | 404 | 23"; |

*(2) by striking out "$342" in section 1682(b) and inserting in lieu thereof "$376";*

*(3) by amending the table contained in section 1682(c) to read as follows:*

| "Column I | Column II | Column III | Column IV | Column V |
|---|---|---|---|---|
| Basis | No dependents | One dependent | Two dependents | More than two dependents |
| | | | | The amount in column IV, plus the following for each dependent in excess of two: |
| Full-time | $304 | $355 | $404 | $23 |
| Three-quarter time | 228 | 266 | 303 | 18 |
| Half-time | 152 | 178 | 202 | 12"; and |

*(4) by striking out "$76" and "$911" in section 1692(b) and inserting in lieu thereof "$84" and "$1,008", respectively.*

### *RATES OF EDUCATIONAL ASSISTANCE FOR SURVIVORS AND DEPENDENTS*

*SEC. 203. Chapter 35 is amended—*

*(1) by striking out "$276" in section 1732(b) and inserting in lieu thereof "$304"; and*

*(2) by striking out "$342", "$108", "$108", and "$11.44" in section 1742(a) and inserting in lieu thereof "$376", "$119", "$119", and "$12.58", respectively.*

### *RATES OF REPORTING FEES AND OF TRAINING ALLOWANCES FOR APPRENTICESHIP OR OTHER ON-JOB TRAINING*

*SEC. 204. Chapter 36 is amended—*

*(1) by striking out "$7" and "$11" in the second sentence of section 1784(c) and inserting in lieu thereof "$9" and "$13", respectively;*

*(2) by striking out "$342" in section 1786(a)(2) and inserting in lieu thereof "$376";*

*(3) by amending the table in section 1787(b)(1) to read as follows:*

| *"Column I* | *Column II* | *Column III* | *Column IV* | *Column V* |
|---|---|---|---|---|
| *Periods of training* | *No dependents* | *One dependent* | *Two dependents* | *More than two dependents* |
| | | | | *The amount in column IV, plus the following for each dependent in excess of two:* |
| *First 6 months* | *$274* | *$307* | *$336* | *$14* |
| *Second 6 months* | *205* | *239* | *267* | *14* |
| *Third 6 months* | *136* | *171* | *198* | *14* |
| *Fourth and any succeeding 6-month periods.* | *68* | *101* | *131* | *14"; and* |

*(4) by striking out "$342" in section 1798(b)(3) and inserting in lieu thereof "$376".*

### *EFFECTIVE DATE*

*SEC. 205. The amendments made by this part shall become effective on October 1, 1984.*

## *PART B—REHABILITATION AND EDUCATION PROGRAM IMPROVEMENTS*

### *TOLLING DELIMITING DATES BY REASON OF DRUG AND ALCOHOL CONDITIONS*

*SEC. 210. (a) Section 1503(b)(1) is amended—*

*(1) by inserting "(A)" before "In"; and*

*(2) by inserting at the end the following new subparagraph:*

*"(B)(i) Subject to clauses (iii) and (iv) of this subparagraph, in any case in which the Administrator determines*

*that a veteran with qualifying service (as described in clause (iii) of this subparagraph) has been prevented from participating in a vocational rehabilitation program under this chapter within the period of eligibility prescribed in subsection (a) of this section because a condition described in clause (ii) of this subparagraph made it infeasible for such veteran to participate in such a program, the 12-year period of eligibility shall not run during the period of time that such veteran was so prevented from participating in such a program.*

*"(ii) The condition referred to in clause (i) of this subparagraph is an alcohol or drug dependence or abuse condition of a veteran in a case in which it is determined, under regulations which the Administrator shall prescribe, that—*

*"(I) such veteran has received recognized treatment for such condition or has participated in a program of rehabilitation for such condition, and*

*"(II) such condition is sufficiently under control to enable such veteran to participate in a vocational rehabilitation program under this chapter.*

*"(iii) Subject to the succeeding sentence, qualifying service referred to in clause (i) of this subparagraph is active military, naval, or air service from which the veteran was discharged or released under conditions other than dishonorable. In any case in which the veteran received a discharge*

*other than an honorable discharge, a determination as to whether the veteran was discharged under conditions other than dishonorable shall be made by the Administrator on the basis of a review of the veteran's service record.*

*"(iv) Clause (i) of this subparagraph applies only if the veteran has filed an application under this paragraph within 1 year after (I) the last date of the period of eligibility otherwise applicable under this section, (II) the termination of the last period of such treatment or such program of rehabilitation, or (III) the date on which final regulations prescribed pursuant to clause (i) of this subparagraph are published in the Federal Register, whichever is the latest.*

*"(v) The period of time during which, pursuant to clause (i) of this subparagraph, the 12-year period of eligibility does not run shall be limited to the period during which the veteran was receiving treatment or the period of time the veteran was participating in a program of rehabilitation for such condition plus such additional length of time as the veteran demonstrates, to the satisfaction of the Administrator, that the veteran was prevented by such condition from participating in a vocational rehabilitation program under this chapter, but in no event shall such period of time be more than 4 years.*

*"(vi) When, pursuant to clause (i) of this subparagraph, a period of eligibility does not run for a period of time, such*

*period of eligibility shall again begin to run on the first day, following such condition becoming sufficiently under control to enable such veteran to participate in such a program of vocational rehabilitation, on which it is reasonably feasible, as determined under such regulations, for such veteran to participate in such a program.".*

*(b) Section 1662(a) is amended—*

*(1) in paragraph (1)—*

*(A) by inserting "or because of a condition (and under the circumstances) described in paragraph (4) of this subsection," after "misconduct"; and*

*(B) by inserting "(except as provided in paragraph (4)(B)(ii) of this subsection)" after "length of time"; and*

*(C) by inserting "because of such disability," after "sentence"; and*

*(2) by inserting at the end the following new paragraph:*

*"(4)(A) A condition referred to in paragraph (1) of this subsection is an alcohol or drug dependence or abuse condition of a veteran with qualifying service (as described in subparagraph (B) of this paragraph) in a case in which it is determined, under regulations which the Administrator shall prescribe, that—*

*"(i) such veteran has received recognized treatment for such condition or has participated in a program of rehabilitation for such condition, and*

*"(ii) such condition is sufficiently under control to enable such veteran to pursue such veteran's chosen program of education under this chapter.*

*"(B) Subject to the succeeding sentence, qualifying service referred to in subparagraph (A) of this paragraph is active military, naval, or air service from which veteran was discharged or released under conditions other than dishonorable. In any case in which the veteran received a discharge other than an honorable discharge, a determination as to whether the veteran was discharged under conditions other than dishonorable shall be made by the Administrator on the basis of a review of the veteran's service record.*

*"(C)(i) Notwithstanding the provisions of paragraph (1) of this subsection, a veteran may be granted an extension of the applicable delimiting period because of such condition upon application for such extension made within 1 year after (I) the last date of the delimiting period otherwise applicable under this section, (II) the termination of the last period of such treatment or such program of rehabilitation, or (III) the date on which final regulations prescribed pursuant to subparagraph (A) of this paragraph are published in the Federal Register, whichever is the latest.*

*"(ii) An extension of the applicable delimiting period because of such condition shall be limited to the period of time the veteran was receiving treatment or the period of time the veteran was participating in a program of rehabilitation for such condition plus such additional length of time as the veteran demonstrates, to the satisfaction of the Administrator, that the veteran was prevented by such condition for initiating or completing such program of education, but in no event shall the extension be for more than 4 years. When such extension is granted, the delimiting period with respect to such veteran will again begin running on the first day, following such condition becoming sufficiently under control to enable such veteran to pursue such veteran's chosen program of education under this chapter, on which it is reasonably feasible, as determined in accordance with such regulations, for such veteran to initiate or resume pursuit of a program of education with educational assistance under this chapter.".*

*(c) Section 1712(b) is amended—*

*(1) in paragraph (2)—*

*(A) by inserting "or because of a condition (and under the circumstances) described in paragraph (3)(A) of this subsection," after "misconduct";*

*(B) by inserting "(except as provided in paragraph (3)(B)(ii) of this subsection)" after "length of time"; and*

*(C) by inserting "because of such disability," after "sentence"; and*

*(2) by inserting at the end the following new paragraph:*

*"(3)(A) A condition referred to in paragraph (2) of this subsection is an alcohol or drug dependence or abuse condition of an eligible person in a case in which it is determined, under regulations which the Administrator shall prescribe, that—*

*"(i) such person (I) has received recognized treatment for such condition, or (II) has participated in a program of rehabilitation for such condition, and*

*"(ii) such condition is sufficiently under control to enable such person to pursue such person's chosen program of education under this chapter.*

*"(B)(i) Notwithstanding the provisions of paragraph (2) of this subsection, an eligible person may be granted an extension of the applicable delimiting period because of such condition upon application for such extension made within 1 year after (I) the last date of the delimiting period otherwise applicable under this section, (II) the termination of the last period of such treatment or such program of rehabilitation, or*

*(III) the date on which final regulations prescribed pursuant to subparagraph (A) of this paragraph are published in the Federal Register, whichever is the latest.*

*"(ii) An extension of the applicable delimiting period because of such condition shall be limited to the period of time the eligible person was receiving treatment or the period of time such person was participating in a program of rehabilitation for such condition plus such additional length of time as such person demonstrates, to the satisfaction of the Administrator, that such person was prevented by such condition from initiating or completing such program of education, but in no event shall the extension be for more than 4 years. When such extension is granted, the delimiting period with respect to such person will again begin running on the first day, following such condition becoming sufficiently under control to enable such person to pursue such person's chosen program of education under this chapter, on which it is reasonably feasible, as determined in accordance with such regulations, for such person to initiate or resume pursuit of a program of education with educational assistance under this chapter.".*

### *REPEAL OF REPORTING REQUIREMENT*

*SEC. 211. Section 1796 is amended by striking out subsection (d).*

### *TERM-BY-TERM CERTIFICATIONS*

*SEC. 212. Prior to making any changes in the practices, policies, or regulations pertaining to reports by institutions required to be submitted pursuant to section 1784 of title 38, United States Code, as such practices, policies, and regulations were in effect on July 1, 1984, the Administrator shall consult with and obtain the recommendations of the advisory committee established pursuant to section 1792 of such title.*

## *TITLE III—VETERANS' EMPLOYMENT PROGRAMS*

### *VETERANS' READJUSTMENT APPOINTMENTS*

*SEC. 301. (a) Subsection (b) of section 2014 is amended—*

*(1) in paragraph (1)—*

*(A) by striking out "and" at the end of clause (B);*

*(B) by striking out the period at the end of clause (C) and inserting in lieu thereof a semicolon and "and"; and*

*(C) by adding at the end the following new clause:*

*"(D) a veteran given a veteran's readjustment appointment under the authority of this subsection whose employment under the appointment*

*is terminated within 1 year after the date of such appointment shall have the same right to appeal that termination to the Merit Systems Protection Board as a career or career-conditional employee has during the first year of employment."; and*

*(2) by striking out "1984" and inserting in lieu thereof "1985" in paragraph (2).*

*(b) The second sentence of subsection (d) of such section is amended by striking out "a semiannual" and inserting in lieu thereof "an annual".*

### *EMERGENCY VETERANS' JOB TRAINING ACT PROGRAM*

*SEC. 302. (a) Section 5(b)(3)(A) of the Emergency Veterans' Job Training Act of 1983 (Public Law 98–77; 97 Stat. 445) is amended by striking out "60" and inserting in lieu thereof "90".*

*(b) Section 16 of such Act is amended by striking out "1986" and inserting in lieu thereof "1987".*

*(c) Section 17 of such Act is amended to read as follows:*

*"SEC. 17. Assistance may not be paid to an employer under this Act—*

*"(1) on behalf of a veteran who initially applies for a program of job training under this Act after November 29, 1984; or*

*"(2) for any such program which begins after September 1, 1985.".*

## *TITLE IV—VETERANS' ADMINISTRATION NON-SERVICE-CONNECTED DISABILITY PENSION*

### *TRIAL WORK PERIOD PILOT PROJECT*

*SEC. 401. (a)(1) Chapter 15 is amended by adding at the end the following new section:*

***"§ 524. Trial work period for pension recipients***

*"(a) Subject to subsections (d) and (f) of this section, for purposes of any determination of whether a veteran is permanently and totally disabled for purposes of this chapter, any activity performed for remuneration or gain by a veteran (or any activity performed by a veteran that is determined by the Administrator to be of a type normally performed for remuneration or gain) during a period of trial work shall be deemed not to have been performed by such veteran during such period.*

*"(b) Notwithstanding any provision of chapter 17 of this title, in the case of a veteran whose pension under section 521 of this title is terminated by reason of income from work or training, the veteran shall retain, during the period of trial work applicable to the veteran, all eligibility for care and services under such chapter (including, as appropriate, drugs and medicines under section 612(h) of this title and special priority with respect to such care and services under section*

*612(i)(5) of this title) that the veteran would have if the veteran's pension had not been terminated.*

*"(c)(1) Notwithstanding any provision of chapter 17 of this title, in the case of a veteran whose entitlement to pension under section 521 of this title is terminated by reason of income from work or training either during the veteran's participation in a vocational rehabilitation program under chapter 31 of this title or under a State plan approved under title I of the Rehabilitation Act of 1973 or following the veteran's completion of such a program, the veteran shall retain, until the end of the twelfth month following the termination of either the veteran's entitlement to pension or the veteran's participation in such program, whichever is later, all eligibility for care and services under such chapter 17 (including, as appropriate, drugs and medicines under section 612(h) of this title and special priority with respect to such care and services under section 612(i)(5) of this title) that the veteran would have if the veteran's pension had not been terminated.*

*"(2) Notwithstanding section 503 of this title, payment of a subsistence or maintenance allowance in connection with a veteran's participation in a vocational rehabilitation program under chapter 31 of this title or under a State plan approved under title I of the Rehabilitation Act of 1973 for any month during which it is necessary for the veteran to reside away from the veteran's permanent residence in order*

*to participate in such program shall not be included in determining, under section 503 of this title, the veteran's annual income for purposes of this chapter.*

*"(d)(1) In order for a period of trial work to apply in the case of a veteran, the veteran must, not later than the thirtieth day after the date on which the veteran begins to perform activity described in subsection (a) of this section, notify the Administrator in writing that the veteran desires or intends to perform such activity or has begun to perform such activity, as the case may be, and that the veteran desires to participate in a period of trial work.*

*"(2) A veteran may participate in no more than one period of trial work under this section.*

*"(3) Except as provided in subsection (c)(2) of this section, no provision of this section shall result in any payment received by a veteran being excluded in determining, under section 503 of this title, the veteran's annual income for purposes of this chapter.*

*"(e) For purposes of this section:*

*"(1) The term 'period of trial work' means the 36-month period following the date on which the veteran begins to perform activity described in subsection (a) of this section in connection with the notice provided pursuant to subsection (d)(1) of this section.*

*"(2) The term 'terminated by reason of income from work or training' means, with respect to disability pension paid to a veteran, terminated as a result of the veteran's receipt of earnings from activity performed for remuneration or gain, but only if the veteran's annual income from sources other than such earnings would, taken alone, not result in the termination of the veteran's disability pension.*

*"(f)(1) This section shall take effect on the first day of the fifth full month after the date of the enactment of this section.*

*"(2) No period of trial work shall apply in the case of a veteran unless such veteran has provided the notice required by subsection (d)(1) of this section and has performed activity described in subsection (a) of this section in at least 1 month prior to the thirty-seventh month (or the forty-ninth month, if the Administrator determines that it is in the best interests of veterans and the United States to extend such time) following the month that this section takes effect. The Administrator shall promptly notify the Committees on Veterans' Affairs of the House of Representatives and the Senate of any extension provided under the preceding sentence.".*

*(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 523 the following new item:*

*"524. Trial work period for pension recipients.".*

*(b) Not later than 39 months after section 524 of title 38, United States Code (as added by subsection (a)(1)), becomes effective, the Administrator of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a report on the results of the first 3 years' implementation of that section. The Administrator shall include in the report the Administrator's assessments of the value (including the cost-effectiveness) and effect of the implementation of that section and any recommendations of the Administrator for administrative and legislative action based on such results and assessments.*

### *REPORT ON MEDICAL EXAMINATIONS OF CERTAIN PENSION RECIPIENTS*

*SEC. 402. (a) Not later than 28 months after the date of the enactment of this Act, the Administrator of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a report containing a statistical tabulation of the results of the examinations conducted as described in subsection (b).*

*(b) In order to prepare the report described in subsection (a) with respect to each veteran who, during the 2-year period beginning on the date of the enactment of this Act, is awarded pension under chapter 15 of title 38, United States Code, and who is considered, under section 502(a) of such title, to be permanently and totally disabled by reason of being 65 years of age or older or becoming unemployable after age 65,*

*the Administrator, not later than 90 days after making such award, shall (1) conduct and the veteran shall undergo a medical examination of the veteran (as though the veteran were applying for compensation under chapter 11 of such title), and (2) determine what, if any, percentage rating would be applicable to the veteran under the schedule of ratings adopted pursuant to section 355 of such title.*

## *TITLE V—OTHER BENEFIT RATE INCREASES*

### *SPECIALLY-ADAPTED HOUSING GRANTS*

*SEC. 501. Section 802 is amended—*

*(1) in subsection (a), by striking out "$32,500" and inserting in lieu thereof "$35,750"; and*

*(2) in subsection (b), by striking out "$5,000" and inserting in lieu thereof "$5,500".*

### *AUTOMOBILE ASSISTANCE*

*SEC. 502. Section 1902(a) is amended by striking out "$4,400" and inserting in lieu thereof "$4,840".*

### *EFFECTIVE DATES*

*SEC. 503. The amendments made by sections 501 and 502 shall take effect on July 1, 1985.*

## *TITLE VI—MISCELLANEOUS PROVISIONS*

### *DEFINITION OF VIETNAM ERA*

*SEC. 601. (a) Section 101(29) is amended to read as follows:*

*"(29) The term 'Vietnam era' means (A) the period beginning on August 5, 1964, and ending on May 7, 1975,*

*and (B) the period beginning on February 21, 1961, and ending on May 7, 1975, in the case of a veteran who served in the Republic of Vietnam during such period.".*

*(b) The amendment made by subsection (a) shall take effect on the date of the enactment of this Act or October 1, 1984, whichever is later.*

### *PAYMENT FOR THERAPEUTIC AND REHABILITATIVE ACTIVITIES*

*SEC. 602. (a) Notwithstanding any other provision of law, no amount of remuneration provided to an individual as a participant in a therapeutic or rehabilitative activity carried out pursuant to section 618 of title 38, United States Code, shall be included in determining annual income for purposes of payments of pension (as defined in section 101(15) of such title).*

*(b)(1) Subsection (a) shall take effect on October 1, 1984, and shall cease to have effect on December 31, 1987.*

*(2)(A) In the case of each person who on January 1, 1984, was, or on a subsequent date prior to October 1, 1984, became, a participant in an activity under such section 618 and who either (A) continuously participated in such activity from January 1, 1984, or such subsequent date through September 30, 1984, or (B) terminated such participation for the purpose of entering into more remunerative employment, the Administrator of Veterans' Affairs shall pay to such person, from funds in the Veterans' Administration compensation*

*and pension account, an amount equal to the amount of pension (as so defined) that such person would have been eligible to receive by reason of subsection (a) if it had become effective as of January 1, 1984.*

*(B) This paragraph shall take effect on October 1, 1984.*

*(c) Not later than February 1, 1987, the Administrator of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a report, with respect to fiscal years 1985 and 1986, on the implementation of subsections (a) and (b). Such report shall contain information regarding the numbers of individuals who participated in activities under such section 618, the numbers of such individuals who are in receipt of Veterans' Administration pension, the costs of excluding payments provided for participation in an activity under such section 618 from countable income for Veterans' Administration pension purpose, and the effect of so excluding such payments on the participation of veterans in such activities. Such report shall also include any recommendations of the Administration for legislative or administrative action in light of information contained in the report.*

*(d) Section 618 is amended by adding at the end the following new subsection:*

*"(f) Neither a veteran's participation in an activity carried out under this section nor such veteran's receipt of remuneration as a result of such participation shall be considered as a basis for the denial or discontinuance of a total disability rating for purposes of compensation or pension based on the veteran's inability to secure or follow a substantially gainful occupation as a result of disability.".*

### *EFFECTIVE DATE OF REDUCTIONS OF CERTAIN DEPENDENTS' ALLOWANCES*

*SEC. 603. Section 3012(b) is amended—*

*(1) by striking out clause (7); and*

*(2) by redesignating clauses (8), (9), and (10) as clauses (7), (8), and (9), respectively.*

### *SUSPENSIONS OF COMPENSATION AND PENSION PAYMENTS TO CERTAIN INSTITUTIONALIZED VETERANS*

*SEC. 604. The first sentence of section 3203(b)(1) is amended—*

*(1) by striking out "by reason of mental illness"; and*

*(2) by inserting "(excluding the value of the veteran's home unless there is no reasonable likelihood that the veteran will again reside in such home)," after "the veteran's estate".*

### *DELETION OF GENDER REFERENCES*

*SEC. 605. Section 103 is amended—*

*(1) in subsection (a)—*

*(A) by striking out "a woman as the widow" and inserting in lieu thereof "an individual as the surviving spouse";*

*(B) by striking out "she" and inserting in lieu thereof "such individual";*

*(C) by striking out "him" and "his" and inserting in lieu thereof "such veteran" and "such veteran's", respectively; and*

*(D) by striking out "widow" and inserting in lieu thereof "surviving spouse";*

*(2) in subsection (b), by striking out "widow" and inserting in lieu thereof "surviving spouse";*

*(3) in subsection (c), by striking out "a woman is or was the wife" and inserting in lieu thereof "an individual is or was the spouse"; and*

*(4) in subsection (d)—*

*(A) in paragraphs (1) and (2), by striking out "widow of a veteran shall not bar the furnishing of benefits to her as the widow" each place it appears and inserting in lieu thereof "surviving spouse of a veteran shall not bar the furnishing of benefits to that individual as the surviving spouse"; and*

*(B) by amending paragraph (3) to read as follows:*

*"(3) If a surviving spouse of a veteran ceases living with another individual and holding out to the public that such surviving spouse is the spouse of such individual, the bar to granting such surviving spouse benefits as the surviving spouse of the veteran shall not apply.".*

Amend the title so as to read: "A bill to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans and of dependency and indemnity compensation for surviving spouses and children of veterans, to increase the rates of subsistence and educational assistance allowances for veterans pursuing vocational rehabilitation programs under chapter 31 and for veterans and eligible persons pursuing programs of education or training under chapter 34, 35, or 36, and to establish trial work period pilot projects for certain veterans receiving disability compensation or pension; and for other purposes.".

# APPENDIX B

**Calendar No. 1185**

| | | |
|---|---|---|
| 98TH CONGRESS<br>*2d Session* | SENATE | REPORT<br>98-604 |

# VETERANS' ADMINISTRATION BENEFIT RATE INCREASE AND PROGRAM IMPROVEMENT ACT OF 1984

## REPORT

OF THE

## COMMITTEE ON VETERANS' AFFAIRS
## UNITED STATES SENATE

TO ACCOMPANY

S. 2736

SEPTEMBER 17, 1984.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE
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Calendar No. 1185

98TH CONGRESS
2d Session

SENATE

REPORT
98-604

# VETERANS' ADMINISTRATION BENEFIT RATE INCREASE AND PROGRAM IMPROVEMENT ACT OF 1984

SEPTEMBER 17, 1984.—Ordered to be printed

Mr. SIMPSON, from the Committee on Veterans' Affairs, submitted the following

## REPORT

[To accompany S. 2736]

The Committee on Veterans' Affairs, to which was referred the bill (S. 2736) to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans and to increase the rates of dependency and indemnity compensation for surviving spouses and children of veterans, having considered the same, reports favorably thereon with an amendment in the nature of a committee substitute, and an amendment to the title, and recommends that the bill as amended, do pass.

### COMMITTEE AMENDMENTS

The Committee amendments are as follows:

Strike out all after the enacting clause as follows:

* * * * * * *

## INTRODUCTION

On June 7, 1984, the Chairman of the Committee, Senator Simpson, introduced two measures for himself and Senator Cranston, the Committee's Ranking Minority Member. The first measure, S. 2736, would provide for a 4.7-percent increase in the rates of disability compensation and dependency and indemnity compensation (DIC). The second measure, S. 2737, would provide for a 10-percent increase in the rates of subsistence and educational assistance allowances for veterans and eligible persons pursuing education or training programs and the rates of subsistence allowances for veterans pursuing VA rehabilitation programs and would also provide a $2 increase in reporting fees paid to educational institutions of training establishments.

Earlier, on February 7, 1984, Senator Cranston, together with Senators Randolph, Matsunaga, and DeConcini, introduced S. 2267, which would increase by 10 percent the maximum amount of the automobile assistance grant for certain service-connected disabled veterans. Also, on February 7, Senator Cranston, joined by Senators Randolph, Matsunaga, DeConcini, and Byrd, introduced S. 2268, a measure to extend for 3 years the period during which veterans readjustment appointments may be made.

On March 20, 1984, Senator Cranston, joined by Senator Randolph, Matsunaga, DeConcini, and Sarbanes introduced S. 2451, which would increase by 17 percent the maximum amount of the specially adapted housing assistance grants for veterans with certain severe service-connected disabilities; would increase by 20 percent the maximum amount of special housing assistance for service-connected disabled veterans who are blind or who have lost, or lost the use of, both upper extremities; and would increase by 27 percent the maximum amount of the VA home loan guaranty entitlement.

On June 13, 1984, Senator Cranston introduced two measures. The first measure, S. 2759, would provide for periods of trial work for veterans who are assigned service-connected total disability ratings by reason of unemployability, during which the 100-percent disability payments would continue even though the veteran was working. The second measure, S. 2760, cosponsored by Senator DeConcini, would extend by 6 months the period of time during which an eligible veteran may apply for a job training program and the date by which veterans must begin training under the Emergency Veterans' Job Training Act of 1983.

On June 27, 1984, Senator Simpson conducted a Committee hearing on S. 2736 and related measures pending before the Committee. Testimony was presented by John W. Hagen, Jr., Deputy Benefits Director of the Veterans' Administration, accompanied by other representatives of that Agency and by representatives of The American Legion, the Veterans of Foreign Wars, the Disabled American Veterans, the Paralyzed Veterans of America, and the Vietnam Veterans of America.

After reviewing the testimony received at the June 27 hearing, the Committee met in open session on July 25, 1984, to consider the provisions of S. 2736 and other measures. The Committee voted unanimously to order S. 2736 reported with a title amendment and an amendment in the nature of a substitute, derived in part from the provisions of S. 2736, S. 2737, S. 2267, S. 2268, S. 2451, S. 2759, and S. 2760, plus two legislative proposals submitted by the Veterans' Administration.

Subsequently, the Committee voted unanimously, by a poll completed on September 5, 1984, to incorporate two provisions which were previously part of S. 2514, the proposed "Veterans' Administration Health Care Amendments of 1984", as reported by the Committee but which were deleted from that bill on the motion of the Committee prior to Senate action on S. 2514 on August 9, 1984. These provisions originated in S. 2269 and Amendment No. 2850 to S. 2269. On February 7, 1984, Senator Cranston, together with Senators Randolph, Matsunaga, and DeConcini, introduced S. 2269. As introduced, section 2 of S. 2269 would have expanded the definition of the Vietnam era for the purposes of title 38, United States Code, so as to include the period beginning on July 8, 1959, and ending on August 4, 1964, for those who served in Vietnam at any time during that period. On March 27, 1984, Senator Cranston, with

Senator Matsunaga's cosponsorship, submitted Amendment No. 2850, to S. 2269. Amendment No. 2850 included a provision that would have specified that any remuneration received by VA patients in a rehabilitation therapy program under section 618 of title 38, United States Code, shall not be counted as income for the purpose of VA pension.

These two provisions—the only provisions of S. 2514 as reported taht involved entitlement spending—were deleted from S. 2514 and incorporated into the Committee bill solely to obviate the need for a waiver for S. 2514 of section 303(a) of the Congressional Budget Act of 1974, under which it is not in order for the Senate to consider legislation providing new entitlement spending in a fiscal year until the Congress has adopted a first concurrent resolution on the budget for that fiscal year. Since the Congress had not yet adopted a first concurrent resolutioin on the fiscal year 1985 budget when S. 2514 was brought before the Senate, a Budget Act waiver would have been necessary as to both of these provisions in that measure. Since S. 2736 proposed a cost-of-living increase and other adjustments in VA entitlements which will require a Budget Act waiver if the first resolution on the fiscal year 1985 budget is not adopted by the time this bill comes before the Senate, the Committee decided to include these two other provisions in S. 2736 and thereby propose only one Budget Act waiver resolution.

## Summary of S. 2736 as Reported

S. 2736 as reported (hereinafter referred to as the "Committee bill") has six titles: Disability compensation and dependency and indemnity compensation; Veterans' Administration rehabilitation and education programs; Veterans' employment programs; Veterans' administration non-service-connected disability pension; Other benefit rate increases; and Miscellaneous provisions, as follows:

### TITLE I: DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION

### *Part A—Rate Increases*

Part A of this title includes amendments to chapters 11 and 13 of title 38, United States Code, which would provide, effective December 1, 1984, a 4.7-percent increase (the same increase that the Congressional Budget Office originally estimated this year will be provided to Social Security recipients and VA pension beneficiaries effective December 1, 1984) in:

(1) basic compensation rates for service-connected disabled veterans and, generally, in the rates payable for certain severe disabilities;

(2) the allowances for spouses, children, and dependent parents paid to service-connected disabled veterans rated 30-percent or more disabled;

(3) the annual clothing allowance paid to veterans whose compensable disability requires the use of a prosthetic or orthopedic appliance (including a wheelchair) that tends to tear or wear out clothing; and

(4) the dependency and indemnity compensation (DIC) rates paid to:

(a) surviving spouses of veterans whose deaths were service connected;

(b) surviving spouses for dependent children and surviving spouses who are so disabled as to be in need of regular aid and attendance or to be permanently housebound; and

(c) the children of veterans whose deaths were service connected where no surviving spouse is entitled to DIC, the child is age 18 through 22 and attending an approved educational institution, or the child is age 18 or over and became permanently incapable of self-support prior to reaching age 18.

If the percentage increase under the Social Security Act, effective December 1, 1984, is not 4.7 percent, the Committee bill would provide that, in lieu of the 4.7-percent rate increases, the Administrator of Veterans' Affairs shall compute and pay alternative increased rates consistent with the rate increase under the Social Security Act.

### *Part B—Compensation Program Amendments*

Part B of this title includes amendments to chapter 11 of title 38, United States Code, in the form of two new sections which would:

(1) Establish a 3-year trial work pilot program (which the Administrator could extend to 4 years) for veterans who are assigned service-connected total disability ratings by reason of individual determinations of unemployability ("IU ratings"). Under the pilot program, a veteran with an IU rating would have the opportunity to participate in a 12-month trial work period and would be eligible for various counseling and placement services. Not later than 39 months after the enactment date, the Administrator would be required to report on the results of the first 3 years' experience under the pilot program.

(2) Provide that all veterans receiving an IU rating must undergo a vocational rehabilitation evaluation, if eligible therefor, and pursue a VA vocational rehabilitation program if one is developed.

## TITLE II: VETERANS' ADMINISTRATION REHABILITATION AND EDUCATION PROGRAMS

### *Part A—Rate Increases*

Part A of this title includes amendments to chapters 31, 34, 35, and 36 of title 38, United States Code, effective October 1, 1984, which would provide a 10-percent rate increase for all Veterans' Administration education programs, including: rehabilitation subsistence allowances for veterans with service-connected disabilities; educational assistance allowances and special supplementary (tutorial) assistance for eligible veterans; training assistance allowances for apprenticeship and other on-job training; and educational assistance and special training allowances for eligible survivors and dependents. Reporting fees to educational institutions would also be increased by $2.

### *Part B—Rehabilitation and Education Program Improvements*

Part B of this title includes amendments to chapters 31, 34, 35, and 36 of title 38, United States Code, which would:

(1) Toll the eligibility period for GI Bill and certain other educational benefits and vocational rehabilitation programs for certain veterans and eligible persons who have been prevented from participating in such programs because of alcohol or drug dependence or abuse. (In the case of a veteran with a general discharge, an individual determination that the discharge was under conditions other than dishonorable would be required.)

(2) Repeal a Veterans' Administration reporting requirement pertaining to deceptive advertising practices by educational institutions.

(3) Require the Administrator to consult with the VA's educational advisory committee prior to changing any educational institution requirements for reporting enrollments of GI Bill trainees.

## TITLE III: VETERANS' EMPLOYMENT PROGRAMS

This title includes amendments to chapter 42 of title 38, United States Code, and Public Law 98-77 which would:

(1) Extend the authority for Vietnam-era veterans readjustment appointments for 1 year, provide limited appeal rights during the first year of an appointment, and provide for annual, instead of semiannual, reports on the program.

(2) Amend the Emergency Veterans' Job Training Act of 1983 to extend by 6 months, until September 1, 1985, the date by which veterans previously certified must commence a training program under that Act; to extend to 90 days the lifetime of certifications of eligibility; and to extend the availability of appropriated funds under the program for 1 year.

## TITLE IV: VETERANS' ADMINISTRATION NON-SERVICE-CONNECTED DISABILITY PENSION

This title includes amendments to chapter 15 of title 38, United States Code, which would:

(1) Establish a 3-year pilot program (which the Administrator could extend to 4 years) to allow a permanently and totally disabled veteran pension recipient to participate in a 36-month period of trial work. Veterans participating in the program would be permitted to retain their disability status and eligibility for VA health-care services during their trial work periods. Also, those whose pension is terminated due to income derived from participation in a VA or State vocational rehabilitation program would have an additional 12-month eligibility period for VA health-care services. All income received from employment during the trial work period, with the exception of certain subsistence allowances associated with vocational rehabilitation programs, would be counted in determining the veteran's income for pension purposes. The Administrator would be required to report on the results of the pilot program's first 3

years of implementation not later than 39 months after its effective date.

(2) Require the Administrator to prepare and submit a report on the results of conducting, during the 2-year period following the enactment date, medical examinations of persons awarded VA pension based on their being over age 65 for the purposes of determining their actual percentage disability ratings.

### TITLE V: OTHER BENEFIT RATE INCREASES

This title includes amendments to chapters 21 and 39 of title 38, United States Code, which would provide, effective July 1, 1985, 10-percent increases in the maximum amounts of: the specially adapted housing assistance grant for certain severely service-connected disabled veterans; special housing assistance for service-connected veterans who are blind or have lost, or lost the use of, both upper extremities; and the automobile assistance grant for certain severely disabled, service-connected veterans.

### TITLE VI: MISCELLANEOUS PROVISIONS

This title includes amendments to chapters 1, 17, 51, and 55 of title 38, United States Code, which would:

(1) Expand the definition of the Vietnam era (August 5, 1964, through May 7, 1975) for the purposes of title 38, United States Code, to include the period beginning on February 21, 1961, and ending on August 4, 1964, in the case of those who served in Vietnam during that time.

(2) Require the VA to conduct a 39-month demonstration project (and submit by February 1, 1987, a report on the first 2 years' experience) under which the income received by veterans for their participation in VA incentive-therapy and compensated-work-therapy programs would not be counted as income for the purpose of VA pension programs.

(3) Specify that a veteran's participation in a VA incentive-therapy or compensated-work-therapy program will not be considered a basis for denying or discontinuing a total disability rating for VA compensation or pension purposes.

(4) Establish the last date of school attendance as the termination date for veterans' dependents' allowances for children between the ages of 18 and 23 who are attending school.

(5) Generally exclude the value of an incompetent, single (without dependents) veteran's home when determining the value of the veteran's estate for purposes of the requirement that the veteran's VA benefits be discontinued during a period of institutional care at public expense.

(6) Delete gender references in certain parts of chapter 1 of title 38, United States Code.

## DISCUSSION

### TITLE I: DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION

### Part A—Rate Increases

### *Background*

*Disability compensation*

The service-connected disability compensation program provides monthly cash benefits to veterans who have suffered disabilities during, or as a result of, their service in our Nation's Armed Forces. This program is the highest program priority of the Veterans' Affairs Committee.

The amount paid in individual instances is contingent upon the nature of the veterans' disability or combination of disabilities and the extent to which earning capacity is considered to have been impaired. Compensable disabilities are rated according to the VA's Schedule of Rating Disabilities on a graduated scale ranging from 10- to 100-percent rate. Higher monthly rates are payable to totally disabled veterans with certain specific, very severe disabilities and combinations of disabilities.

The Veterans' Administration disability compensation program in July 1984 provided benefits for 2,252,779 veterans who have service-connected disabilities. This number includes disabled veterans with the following periods of service: 15,520 World War I veterans; 1,085,709 World War II veterans; 225,998 Korean-conflict veterans; and 593,606 Vietnam-era veterans.

The following table shows average costs and caseloads for veterans and survivors:

## TABLE 1.—COMPENSATION—SUMMARY OF REQUIREMENTS

[Total cost in thousands of dollars]

| | Fiscal year 1983 | | | Fiscal year 1984 | | | Fiscal year 1985 | | |
|---|---|---|---|---|---|---|---|---|---|
| | Average cases | Average benefit | Total obligations | Average cases | Average benefit | Total obligations | Average cases | Average benefit | Total obligations |
| Compensation (total) | 2,616,305 | 3,768 | 9,857,700 | 2,605,300 | 3,791 | 9,875,422 | 2,598,300 | 3,789 | 9,844,300 |
| Veterans (total) | 2,268,305 | 3,532 | 8,010,063 | 2,260,300 | 3,552 | 8,029,382 | 2,255,800 | 3,546 | 7,938,233 |
| Spanish-American War | 3 | 7,000 | 21 | 3 | 7,333 | 22 | 3 | 7,333 | 22 |
| Mexican Border period | 4 | 7,000 | 28 | 4 | 7,500 | 30 | 4 | 7,500 | 30 |
| World War I | 19,645 | 4,195 | 82,418 | 16,800 | 4,212 | 70,759 | 14,200 | 4,202 | 59,668 |
| World War II | 1,124,488 | 3,348 | 3,764,287 | 1,095,000 | 3,364 | 3,683,667 | 1,067,500 | 3,355 | 3,581,109 |
| Korean conflict | 229,929 | 3,973 | 913,511 | 227,600 | 3,992 | 908,512 | 225,193 | 3,982 | 896,789 |
| Vietnam era | 583,132 | 3,636 | 2,120,410 | 591,093 | 3,658 | 2,162,328 | 599,300 | 3,647 | 2,188,527 |
| Peacetime service | 310,945 | 3,632 | 1,129,389 | 329,000 | 3,651 | 1,204,064 | 349,600 | 3,647 | 1,275,088 |
| Survivors (total) | 348,159 | 5,245 | 1,825,997 | 345,000 | 5,288 | 1,824,262 | 342,500 | 5,326 | 1,824,321 |
| Civil War | 3 | 4,874 | 15 | 3 | 5,000 | 15 | 3 | 5,000 | 15 |
| Spanish-American War | 96 | 5,677 | 545 | 80 | 5,700 | 456 | 70 | 5,700 | 399 |
| Mexican-Border period | 1 | 7,000 | 7 | 1 | 7,000 | 7 | 1 | 7,000 | 7 |
| World War I | 26,380 | 5,714 | 150,725 | 25,200 | 5,707 | 143,820 | 24,000 | 5,701 | 136,816 |
| World War II | 163,932 | 4,693 | 769,299 | 161,200 | 4,743 | 764,571 | 159,000 | 4,788 | 761,291 |
| Korean conflict | 38,689 | 5,095 | 197,114 | 38,300 | 5,177 | 198,279 | 38,000 | 5,250 | 199,500 |
| Vietnam era | 68,147 | 5,805 | 395,608 | 69,000 | 5,828 | 402,138 | 69,900 | 5,851 | 408,989 |
| Peacetime service | 50,911 | 6,142 | 312,684 | 51,216 | 6,150 | 314,976 | 51,526 | 6,158 | 317,304 |
| Clothing allowance (total) | (66,729) | 325 | 21,720 | (66,600) | 327 | 21,778 | (66,500) | 327 | 21,746 |

Source: Department of Veterans' Benefits, Veterans' Administration, August 1984.

*History of cost-of-living increases*

The Committee periodically reviews the service-connected disability compensation program with a view toward assuring that the benefits authorized provide reasonable and adequate compensation for disabled veterans and their families. Congress has traditionally acted periodically to provide cost-of-living increases in compensation benefits, in order to assure that those benefits keep pace with inflation.

The following table shows statutory increases in the rates of disability compensation since 1957:

## TABLE 2.—HISTORY OF SERVICE-CONNECTED DISABILITY COMPENSATION INCREASES, 1957 TO PRESENT

| Sec. 314, title 38, subsection— | Public Law 85-168, Oct. 1, 1957, monthly rate | Public Law 87-645, Oct. 1, 1962 | | Public Law 89-311, Oct. 31, 196[illegible] | | Public Law 90-493, Jan. 1, 1969 | | Public Law 91-376, July 1, 1970 | | Public Law 92-328, Aug. 1, 1972 | | Public Law 93-295, May 1, 1974 | | Public Law 94-71, Aug. 1, 1975 | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | Percentage increase | Monthly rate | Percentage increase | Monthly rate | Percentage increase | Monthly rate | Percentage increase | Monthly rate | Percentage increase | Monthly rate | Percentage increase | Monthly rate | Percentage increase | Monthly rate |
| (a) | $19 | 0.3 | $20 | 5.0 | $21 | 9.5 | $23 | 8.7 | $25 | 12.0 | $28 | 15 | $32 | 9.4 | $35 |
| (b) | 36 | 5.6 | 38 | 5.3 | 40 | 7.5 | 43 | 7.0 | 46 | 10.8 | 51 | 15 | 59 | 10.2 | 65 |
| (c) | 55 | 5.5 | 58 | 3.4 | 60 | 8.3 | 65 | 7.7 | 70 | 10.0 | 77 | 15 | 89 | 10.1 | 98 |
| (d) | 73 | 5.5 | 77 | 6.6 | 82 | 8.5 | 89 | 7.9 | 96 | 10.4 | 106 | 15 | 122 | 9.8 | 134 |
| (e) | 100 | 7.0 | 107 | 5.6 | 113 | 8.0 | 122 | 10.7 | 135 | 10.3 | 149 | 15 | 171 | 9.9 | 188 |
| (f) | 120 | 6.7 | 128 | 6.3 | 136 | 8.1 | 147 | 10.9 | 163 | 9.8 | 179 | 18 | 211 | 11.9 | 236 |
| (g) | 140 | 6.4 | 149 | 7.4 | 161 | 8.1 | 174 | 10.9 | 193 | 9.8 | 212 | 18 | 250 | 12.0 | 280 |
| (h) | 160 | 6.3 | 170 | 9.4 | 186 | 8.1 | 201 | 10.9 | 223 | 9.9 | 245 | 18 | 289 | 12.1 | 324 |
| (i) | 179 | 6.7 | 191 | 9.4 | 209 | 8.1 | 226 | 10.6 | 250 | 10.0 | 275 | 18 | 325 | 12.0 | 364 |
| (j) | 225 | 11.1 | 250 | 20.0 | 300 | 33.3 | 400 | 12.5 | 450 | 10.0 | 493 | 18 | 584 | 12.2 | 655 |
| (k) | | | | | | | | | | | | 10 | 52 | 0 | 52 |
| (l) | 309 | 10.0 | 340 | 17.6 | 400 | 25.2 | 500 | 12.0 | 560 | 10.0 | 616 | 18 | 727 | 12.0 | 814 |
| (m) | 359 | 8.6 | 390 | 15.4 | 450 | 22.2 | 550 | 12.0 | 616 | 10.1 | 678 | 18 | 800 | 12.0 | 896 |
| (n) | 401 | 9.7 | 440 | 19.3 | 525 | 18.2 | 625 | 12.0 | 700 | 10.0 | 770 | 18 | 909 | 12.0 | 1,018 |
| (o) | 450 | 16.7 | 525 | 14.3 | 600 | 16.7 | 700 | 12.0 | 784 | 9.0 | 862 | 18 | 1,017 | 12.0 | 1,139 |
| (p) | 450 | 16.7 | 525 | 14.3 | 600 | 16.7 | 700 | 12.0 | 784 | 9.9 | 862 | 18 | 1,017 | 12.0 | 1,139 |
| (q) | | | | | | | | | | | | | | | |
| Subsec. (r) "aid and attendance" non-hospitalization, Public Law 82-782, effective Oct. 1, 1958: | | | | | | | | | | | | | | | |
| (1) | 150 | 33.3 | 200 | 25.0 | 250 | 20.0 | 300 | 12.0 | 336 | 10.1 | 370 | 18 | 437 | 11.9 | 489 |
| (2) | | | | | | | | | | | | | | | |
| Subsec. (s) (housebound cases), Public Law 86-663, effective Sept. 1, 1960 | 265 | 9.4 | 290 | 20.7 | 350 | 28.8 | 450 | 12.0 | 504 | 9.9 | 554 | 18 | 654 | 11.9 | 732 |
| (t) | | | | | | | | | | | | | | | |
| Sec. 362, of title 38 | | | | | | | | | | | | | | | |

### TABLE 2.—HISTORY OF SERVICE-CONNECTED DISABILITY COMPENSATION INCREASES, 1957 TO PRESENT—Continued

| Sec. 315, title 38, subsection— | Public Law 94–433, Oct. 1, 1976 | | Public Law 95–117, Oct. 1, 1977 | | Public Law 95–479, Oct. 1, 1978 | | Public Law 95–128, Oct. 1, 1979 | | Public Law 96–385, Oct. 1, 1980 | | Public Law 97–66, Oct. 1, 1981 | | Public Law 97–306, Oct. 1, 1982 | | Public Law 98–223, Apr. 1, 1984 | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Percentage increase | Monthly rate | Percentage increase | Monthly rate | Percentage increase | Monthly rate | Percentage increase | Monthly rate | Percentage increase | Monthly rate | Percentage increase | Monthly rate | Percentage increase | Monthly rate | Percentage increase | Monthly rate |
| (a) | 8.6 | $38 | 6.6 | $41 | 7.3 | $44 | 9.9 | $48 | 13.0 | $54 | 8.0 | $58 | 6.9 | $62 | 3.5 | $64 |
| (b) | 7.7 | 70 | 6.6 | 76 | 7.3 | 80 | 9.9 | 88 | 13.0 | 99 | 8.0 | 107 | 6.5 | 114 | 3.5 | 118 |
| (c) | 8.2 | 106 | 6.6 | 113 | 7.3 | 121 | 9.9 | 133 | 13.0 | 150 | 8.0 | 162 | 6.8 | 173 | 3.5 | 179 |
| (d) | 8.2 | 145 | 6.6 | 155 | 7.3 | 166 | 9.9 | 182 | 13.0 | 206 | 12.6 | 232 | 7.3 | 249 | 3.5 | 258 |
| (e) | 8.0 | 203 | 6.6 | 216 | 7.3 | 232 | 9.9 | 255 | 14.3 | 291 | 12.6 | 328 | 7.3 | 352 | 3.5 | 364 |
| (f) | 8.1 | 255 | 6.6 | 272 | 7.3 | 292 | 9.9 | 321 | 14.3 | 367 | 12.6 | 413 | 7.3 | 443 | 3.5 | 459 |
| (g) | 7.9 | 302 | 6.6 | 322 | 7.3 | 346 | 9.9 | 380 | 14.3 | 434 | 20.0 | 521 | 7.3 | 559 | 3.5 | 579 |
| (h) | 8.0 | 350 | 6.6 | 373 | 7.3 | 400 | 9.9 | 440 | 14.3 | 503 | 20.0 | 604 | 7.3 | 648 | 3.5 | 671 |
| (i) | 8.0 | 393 | 6.6 | 419 | 7.3 | 450 | 9.9 | 495 | 14.3 | 566 | 20.0 | 679 | 7.4 | 729 | 3.5 | 755 |
| (j) | 7.9 | 707 | 6.6 | 754 | 7.3 | 809 | 9.9 | 889 | 14.3 | 1,016 | 11.2 | 1,130 | 7.3 | 1,213 | 3.5 | 1,255 |
| (k) | 8.0 | 879 | 6.6 | 56 | 0 | 56 | 0 | [2] 56 | 0 | 62 | 0 | 62 | 0 | 62 | 0 | 62 |
| (l) | 8.0 | 879 | 6.6 | 337 | 7.3 | 1,005 | 9.9 | 1,104 | 14.3 | 1,262 | 11.2 | 1,403 | 7.3 | 1,506 | 3.5 | 1,559 |
| (m) | 8.0 | 968 | 6.6 | 1,032 | 7.3 | 1,107 | 9.9 | 1,217 | 14.3 | 1,391 | 11.2 | 1,547 | 7.4 | 1,661 | 3.5 | 1,719 |
| (n) | 8.0 | 1,099 | 6.6 | 1,172 | 7.3 | 1,258 | 9.9 | 1,383 | 14.3 | 1,581 | 11.2 | 1,758 | 7.4 | 1,888 | 3.5 | 1,954 |
| (o) | 8.1 | 1,231 | 6.6 | 1,312 | 7.3 | 1,408 | 9.9 | 1,547 | 14.3 | 1,768 | 11.2 | 1,966 | 7.4 | 2,111 | 3.5 | 2,185 |
| (p) | 8.1 | 1,231 | 6.6 | 1,312 | 7.3 | 1,408 | 9.9 | 1,547 | 14.3 | 1,768 | 11.2 | 1,966 | 7.4 | 2,111 | 3.5 | 2,185 |
| (q) | | | | | | | | | | | 0 | 67 | 0 | 67 | 0 | 67 |
| Subsec. (r) "Aid and Attendance" nonhospitalization, Public Law 85–782, effective Oct. 1, 1958: | | | | | | | | | | | | | | | | |
| (1) | 0 | 528 | 6.6 | 563 | 7.3 | 604 | 9.9 | 664 | 14.3 | 759 | 11.2 | 844 | 7.3 | 906 | 3.5 | 938 |
| (2) | | | | | ([1]) | 900 | | 989 | 14.3 | 1,130 | 11.2 | 1,257 | 7.4 | 1,350 | 3.5 | 1,397 |
| Subsec. (s) (housebound cases), Public Law 86–663, effective Sept. 1, 1960) | 7.7 | 791 | 6.6 | 843 | 7.3 | 905 | 9.9 | 995 | 14.3 | 1,137 | 11.2 | 1,264 | 7.4 | 1,357 | 3.5 | 1,404 |
| (t) | | | | | ([1]) | 175 | | 192 | 14.3 | 219 | 11.2 | 244 | 7.4 | 262 | 3.5 | 271 |
| Sec. 326 of title 38 | 8.5 | 190 | 6.6 | 203 | 7.3 | 218 | 9.9 | 240 | 14.3 | 274 | 11.2 | 305 | 7.2 | 327 | 3.5 | 338 |

[1] From Oct. 1978.

[2] (k) $62 effective Sept. 1, 1980 (9.9 percent increase).

Source: Department of Veterans' Benefits, Veterans' Administration, August 1984.

*Dependency and indemnity compensation (DIC)*

The dependency and indemnity compensation (DIC) programs, which supplanted the earlier death compensation program, were established in 1956 with the enactment of the Servicemen's and Veterans' Survivors Benefit Act (Public Law 84-881).

DIC is paid to the survivors—surviving spouses, unmarried children under the age of 18, as well as certain helpless children age 18 or over, childen between the ages of 18 and 23 who are enrolled in school, and certain needy parents—of servicemen or veterans who died on or before January 1, 1957, from: (1) a disease or injury incurred or aggravated in the line of duty while on active duty or active duty training; or (2) an injury incurred or aggravated in the line of duty on inactive duty training; or (3) a disability compensable under laws administered by the VA.

Surviving spouses, children, and parents who are receiving death compensation by reason of a veteran's death occurring before January 1, 1957, may elect to receive DIC benefits in lieu of death compensation. Once they so elect, however, they cannot, thereafter, receive death compensation.

DIC is paid to surviving spouses at rates determined by the pay grade—service rank—of the deceased veteran. A higher rate is payable if the surviving spouse is so disabled as to be housebound or in need of regular aid-and-attendance, and additional amounts are payable for the veteran's surviving children. Children become entitled to DIC where there is no surviving spouse, or where the child age 18 or over has become permanently incapable of self-support before reaching the age of 18, or the child is age 18 to 23 and pursuing an approved course of education. DIC benefits are currently paid to or for 312,840 surviving spouses and children of those who died as a result of their service-connected disabilities. In addition, DIC is paid to 43,843 needy surviving parents of veterans whose deaths were service connected. Under Public Law 95-588, the provisions of chapter 13 of title 38, United States Code, governing the parents' DIC rates, were amended to provide for automatic annual adjustments at the same time and by the same percentage as Social Security benefits.

Under section 410(b) of title 38, benefits are also paid at DIC rates to the surviving spouse and children of veterans whose deaths are not determined to be service connected, where the veteran received compensation at the 100-percent rate over an extended period of time immediately prior to his or her death.

### *Committee Bill Provisions*

The Committee bill provides for a 4.7-percent cost-of-living (COLA) increase, effective December 1, 1984, in the service-connected disability compensation and dependency and indemnity compensation benefit rates. This percentage increase—the same as that, at the time of the Committee's July 25 meeting, the Congressional Budget Office estimated Social Security benefits would be increased this year—is designed to be the same as the cost-of-living adjustments paid to Social Security beneficiaries and VA pensioners eligible for benefits under the new pension program established by Public Law 95-588. If the December 1, 1984, Social Security COLA is greater or less than the 4.7-percent estimated increase, the compensation rate increases would be adjusted accordingly to ensure a uniform cost-of-living rate increase and effective date, based on the actual rate of inflation. In calculating the rate increases, the Committee has rounded to the next higher dollar all amounts of $.50 or more; amounts of less $.50 have been rounded down.

The Committee's rationale for these rate increases, effective December 1, 1984, is set forth at page 12 of the Committee's "Budget Views and Estimates for Fiscal Year 1985", Senate Print 98-165, which was submitted to the Senate Budget Committee on March 16, 1984 (Committee Print No. 2). This effective date conforms with section 108 of Public Law 98-223, which expressed the sense of Congress that COLA's for fiscal years subsequent to 1984 are to take effect on December 1.

### *Disability compensation increases*

The 4.7-percent increase provided for by the Committee bill would apply to the monthly rates of disability compensation under section 314 of title 38, United States Code, except for the monthly rate specified in subsection (k) of section 314; the rates of additional monthly compensation for dependents payable under section 315 to veterans rated 30-percent of more disabled; and the annual clothing allowance under section 362 for disabled veterans who must use prosthetic or other orthopedic appliances, such as wheelchairs, that tend to tear or wear out their clothing. The maximum monthly amounts specified in subsections (k) and (p) of section 314 would also be increased. Those are specified dollar amounts that may not be exceeded in the event that a veteran would otherwise be entitled to a higher amount by reason of entitlement to two or more monthly rates.

The following table shows the August 1984 rates of disability compensation and those proposed by the Committee bill, together with the number of veterans receiving compensation in each category:

TABLE 3.—COMPARISON OF COMPENSATION RATES UNDER PRESENT LAW AND UNDER S. 2736 AS REPORTED

| Applicable subsection of sec. 314, United States Code | Percentage of disability | Increase in monthly rate | | Number of Veterans |
|---|---|---|---|---|
| | | From— | To— | |
| (a) | (10) | $64 | $67 | 885,500 |
| (b) | (20) | 118 | 124 | 356,420 |
| (c) | (30) | 179 | 187 | 314,726 |
| (d) | (40) | 258 | 270 | 185,446 |
| (e) | (50) [1] | 364 | 381 | 112,381 |
| (f) | (60) [1] | 459 | 481 | 118,224 |
| (g) | (70) [1] | 579 | 606 | 66,950 |
| (h) | (80) [1] | 671 | 703 | 37,464 |
| (i) | (90) [1] | 755 | 790 | 14,039 |
| (j) | (100) | 1,255 | 1,314 | 137,265 |

[1] Includes cases in which payment is made at the total disability rate due to individual unemployability

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## HIGHER STATUTORY AWARDS FOR CERTAIN MULTIPLE DISABILITIES

| Applicable subsection of sec. 314 United States Code | Percentage of disability | Increase in monthly rate | | Number of veterans |
|---|---|---|---|---|
| | | From— | To— | |
| (k)(l) | Anatomical loss or loss of use of 1 or more creative organ, 1 foot, 1 hand, or both buttocks, or blindness of 1 eye, or complete organic apnonia, or deafness of both ears—for each loss. | 62 | 62 | |
| (2) | Maximum limit for veterans receiving payments under (a) to (j), above. | 1,559 | 1,632 | 84,497 |
| (3) | Maximum limit for veterans receiving payments under (i) to (n), below. | 2,185 | 2,288 | |
| (l) | Anatomical loss or loss of use of both hands, both feet, 1 foot and 1 hand, blindness in both eyes, permanently bedridden or so helpless as to require regular aid and attendance. | 1,559 | 1,632 | 7,909 |
| (m) | Anatomical loss or loss of use of 2 extremities so as to prevent natural elbow or knee action with prosthesis in place, or blind in both eyes, either with light perception only or rendering veteran so helpless as to require regular aid and attendance. | 1,719 | 1,800 | 4,465 |
| (n) | Anatomical loss of 2 extremities so near shoulder or hip as to prevent use of prosthesis or anatomical loss of both eyes. | 1,954 | 2,046 | 999 |
| (o) | Disability under conditions entitling veteran to 2 or more of the rates provided in (l) through (n), above, no condition being considered twice in the determination, or deafness rated at 60 percent or more in combination with total blindness. | 2,185 | 2,288 | 385 |
| (p)(l) | For blindness of both eyes together with bilateral deafness rated at 40 percent or more disabling or total deafness of 1 ear, next higher rate of intermediate rate, respectively is payable—but compensation may not exceed. | 2,185 | 2,288 | 1,820 |
| (2) | Anatomical loss or loss of use of three extremities, next higher rate or intermediate rate is payable—but compensation may not exceed. | 2,185 | 2 288 | 1,820 |
| (q) | [This subsection repealed by Public Law 90–493] | | | |
| (r)(l) | If veteran entitled to compensation at the rate provided for under (o), above, or at the maximum rate under (p), above, is in need of regular aid and attendance, in addition to such rate. | 938 | 982 | 6,173 |
| (2) | If veteran described in (r)(l), above, is in need of a higher level of care by a licensed health-care professional or a person under the regular supervision of such a professional, in addition to the rate payable under (o) or (p). | 1,397 | 1,463 | 1,525 |
| (s) | If veteran has a disability rated as total, plus additional disability independently ratable at 60 percent or over, or is permanently housebound. | 1,404 | 1,470 | 6,819 |
| (t) | If veteran entitled to compensation under (a) through (i) above, has suffered the service-connected loss or loss of use of an extremity ratable at 40 percent or more and the non-service-connected loss or loss of use of paired extremity, and the latter loss would be rated at 40 percent or more if service connected, in addition to the rate payable under (a) through (i), above. | 271 | 284 | 66 |

Department of Veterans' Benefits, Veterans' Administration, June 1984.

Source: Section 314 of title 38, United States Code, August 1984.

### *Dependents' allowances increases*

Veterans whose disabilities are rated at 30 percent or more may receive additional compensation for the veteran's spouse, children, and dependent parents. Under the Committee bill, those dependents' allowances would also be increased by 4.7 percent. Such dependents allowances are prorated according to the percentage of disability. As of March 1984, the number of dependents for whom veterans received additional compensation was 1,125,291.

The following table shows the current rates of additional compensation for dependents and those that would be provided for under the Committee bill:

TABLE 4.—ADDITIONAL COMPENSATION FOR DEPENDENTS

| | Monthly rate | |
|---|---|---|
| | From— | To— |
| Spouse | $77 | $81 |
| Spouse and child | 128 | 134 |
| No spouse, 1 child | 52 | 54 |
| Each additional child | 41 | 43 |
| Each dependent parent | 62 | 65 |
| Each child age 18 to 22 attending school | 116 | 121 |
| Spouse in nursing home or severely disabled | 139 | 146 |

Source: Section 315 of title 38, United States Code, August 1984.

### *Dependency and indemnity compensation increases*

The Committee bill would also provide for a cost-of-living increase of 4.7 percent in DIC rates for surviving spouses and children, which is the same rate of increase provided for service-connected disabled veterans by the Committee bill. Additional allowances for surviving spouses in need of aid and attendance or who are housebound, helpless children age 18 or over, and children between the ages of 18 and 23 attending school would also be increased by 4.7 percent.

The following table shows a comparison of those rates under current law with the rates provided for under the Committee bill:

TABLE 5.—COMPARISON OF MONTHLY DIC RATES UNDER PRESENT LAW AND S. 2736 AS REPORTED

| Base monthly rates to surviving spouses | From— | To— | Base monthly rates to surviving spouses | From— | To— |
|---|---|---|---|---|---|
| Veterans' pay grade: | | | Veterans' Pay grade: | | |
| E-1 | $461 | $483 | W-4 | $661 | $692 |
| E-2 | 475 | 497 | O-1 | 583 | 610 |
| E-3 | 486 | 509 | O-2 | 602 | 630 |
| E-4 | 518 | 542 | O-3 | 644 | 674 |
| E-5 | 532 | 557 | O-4 | 681 | 713 |
| E-6 | 544 | 570 | O-5 | 751 | 786 |
| E-7 | 571 | 598 | O-6 | 846 | 886 |
| E-8 | 602 | 630 | O-7 | 915 | 958 |
| E-9 | 629 | 659 | O-8 | 1,003 | 1,050 |
| W-1 | 583 | 610 | O-9 | 1,077 | 1,128 |
| W-2 | 607 | 636 | O-10 | 1,179 | 1,234 |
| W-3 | 624 | 653 | | | |

Source: Section 411 of title 38, United States Code, August 1984.

### TABLE 6.—ADDITIONAL PAYMENTS

| | From— | To— |
|---|---|---|
| Surviving spouse, addition for each child | $53 | $55 |
| Addition if surviving spouse in need of regular aid and attendeance | 139 | 146 |
| Surviving child (where no surviving spouse is entitled) | 233 | 244 |
| 2 such children[1] | 334 | 350 |
| 3 such children | 432 | 452 |
| More than 3 children, addition for each additional child | 87 | 91 |
| Addition if such child is helpless | 139 | 146 |
| Helpless child, where surviving spouse is also entitled | 233 | 244 |
| Child attending school, where surviving spouse is also entitled | 118 | 124 |

[1] If there is more than 1 surviving child, an equal share of the total amount is paid to each child.

Soruce: Sections 411, 413, 414 of title 38, United States Code, August 1984.

The 4.7-percent increase would also be applicable to benefits paid at DIC rates under section 410(b) of title 38, United States Code, to the surviving spouses and children of certain totally disabled service-connected disabled veterans whose deaths were not service connected.

## Part B—Compensation Program Amendments

### *Trial Work Period Pilot Project*

Section 110 of the Committee bill contains provisions to establish a 3-year pilot project (which the Administrator could extend to 4 years) under which a veteran with a service-connected total disability rating by reason of a individual determination of unemployability ("IU rating") could participate in a one-time period of trial work without losing that rating. This section also contains provisions to make job counseling and related services available to veterans with IU ratings and to require veterans receiving IU ratings after the date of enactment to request—and, if eligible therefor, to undergo—an evaluation under the chapter 31 vocational rehabilitation program. If a vocational rehabilitation program were developed for such a veteran under chapter 31, he or she would be required to pursue it. If he or she did not comply substantially, his or her IU rating would be reviewed, with such non-compliance considered in the review.

### *Background and Purposes*

Under the VA's compensation program, the service-connected disabilities of veterans are rated, in multiples of 10 percentage points, from zero percent through 100 percent disabling. The schedule of these ratings is designed to reflect the average impairments of earning capacity resulting from particular disabilities. In general, these rating are assigned, according to the VA's schedule of ratings, on the basis of the nature and extent of the disability or combination of disabilities, without regard to whether the particular veteran is or is not actually engaged in a gainful occupation or the level of his or her earnings. However, there is an exception. Under long-standing VA regulations (section 4.16 of title 38 of the Code of Federal Regulations (CFR)) provision is made for assigning to a veteran with a disability or disabilities not rated as totally disabling a 100 percent disability rating if an individualized determination is made that he or she is "unable to secure or follow a substantially gainful occupation as a result of service-connected disabilities." A substantial element of judgment is involved in making these determinations, and consideration is given to the nature of the veteran's service-connected disability, employment history, educational and vocational attainment, and other pertinent factors. At present, there are approximately 85,000 veterans with total disability ratings based on individual unemployability (hereinafter referred to as "IU ratings").

The employability situation of a veteran with an IU rating is subject to periodic review. Thus, for example, if either the veteran's medical condition were to improve or the veteran were to return to work, the unemployability determination could be set aside and the total disability rating reduced to the rating that the veteran's disability itself warrants.

The Committee bill is designed to determine whether a limited protection of the IU rating would encourage IU-rated veterans in attempting to return to work. The Committee notes that an IU rating can result in more than twice the benefits to which the veteran was entitled based on the schedular rating for his or her physical disability. The Committee bill is also designed to ensure that veterans who receive IU ratings realize whatever value the VA's vocational rehabilitation program may have in helping and encouraging them to return to work.

The Committee notes that a program similar to that provided for in the Committee bill already exists under the Social Security disability insurance—SSDI—program. Under section 222(c) of the Social Security Act, work performed by an individual during a so-called "period of trial work" is disregarded for purpose of determination as to whether he or she ceased to be disabled during that period. The period of trial work begins with the month in which the disabled individual becomes entitled to SSDI benefits and terminates at the end of the ninth month thereafter in which the individual has worked. Thus the SSDI period of trial work gives the individual 9 months—not necessarily consecutive months—during which he or she may engage in work on a trial basis without a need to be concerned that the attempt to work might mean the loss of SSDI benefits even though it turns out that his or her disability prevents employment on a long-term basis.

The Committee considers it desirable to provide every reasonable opportunity and encouragement for disabled veterans—including those with very serious handicaps and those determined to be unemployable—to return to work. In this regard, the Committee believes that additional efforts to assist veterans with IU ratings to attempt to return to work may be fruitful. Thus, section 110 of the Committee bill would establish a pilot project under which IU-rated veterans would be provided with the opportunity to participate in trial-work periods—patterned after the trial-work-period concept under the SSDI program—and with certain counseling and placement services. Work performed by the veteran during his or her period of trial work could not be taken into account in any review of the veteran's unemployability status. In addition, the VA would be required to conduct an outreach program to inform veterans with IU ratings about the pilot project and the availability of vocational rehabilitation under chapter 31 of title 38, United States Code, relating to the VA's rehabilitation programs for service-connected disabled veterans. An IU-rated veteran returning to work and desiring to participate in a trial-work period would be required to notify the VA of those facts, in writing, within 30 days after starting to work.

The Committee believes that these pilot project provisions could be beneficial both to service-connected disabled veterans with IU ratings who desire to return to work as well as to the compensation program itself. The period of trial work is designed to provide an additional, useful tool to the VA outreach staff and vocational rehabilitation counselors seeking to assist these disabled veterans in preparing to return to and remain in the workforce. The VA has a comprehensive program of vocational rehabilitation services for service-connected disabled veterans under chapter 31 of title 38, United States Code, which the Congress revised and updated in 1980 in Public Law 96-466. The Committee urges the VA to ensure that the trial-work-period concept is linked to the agency's efforts to rehabilitate IU-rated veterans and to assist those who participate in the chapter 31 program to find and keep suitable employment.

### *Committee Bill Provisions*

Specifically, the Committee bill would establish a trial-work period pilot project that would take effect at the start of the fifth full month after the date of enactment and remain in effect for a period of 36 months, which the Administrator could extend to 48 months. A trial-work period would consist of a period of 12 consecutive months beginning on the date that the veteran begins to perform work. In order to participate in a period of trial work, the veteran would have to give the VA written notice, not later than 30 days after starting to work, of his or her plans to work and to participate in a trial-work period.

The trial-work period is intended to help alleviate the veteran's concern that, if he or she does return to work, he or she will lose the IU rating even if he or she discovers that long-term employment is not possible. This provision would give the IU-rated veteran the opportunity to make an effort to return to work without running any risk, during the first 12 months after starting work, that his or her working during that period would result in determination that he or she is not entitled to the IU rating.

Activity determined by the Administrator to be of a type normally performed for remuneration or gain would be treated the same as activity that actually is performed for remuneration or gain. This provision regarding gainful-employment-like activities derives from the SSDI trial-work-period provision. The term used in this Social Security Act provision for work is "renders services", and the term "services" is defined as "activity which is performed for remuneration or gain or is determined by the Secretary [of Health and Human Services] to be of a type normally performed for remuneration or gain". The implementing regulations (section 404.1536(d) of title 42, Code of Federal Regulations (CFR)) make the following clarification:

> Work performed without remuneration merely as a therapeutic measure or purely as a matter of training, or work usually performed in daily routine around the home or in self-care, is not considered "services".

The Committee intends the VA to apply the same concept in implementing the trial-work period proposed in the Committee bill.

Once the 12-month trial-work periods has run, work performed thereafter by the veteran could be taken into account by the VA in assessing whether the veteran is or is not employable. However, in order to provide further encouragement to the veteran weighing the possibility of returning to work, the Committee bill would provide a potentially helpful procedural advantage to the veteran who, after his or her trial-work period, works and receives a reduction in his or her disability compensation as a result of being determined to be employable. If the veteran's work income falls below $300 in any month during the first year after the trial-work period, the veteran's IU rating would be restored effective as of the first day of that month and the Administrator would be required to review the case and determine whether an IU rating is warranted. (This $300 level derives from the SSDI regulations (sections 404.1571-74 of title 42, CFR), under which earnings of $300 or more per month are ordinarily considered as showing that the individual has performed "substantially gainful activity"—a finding of which renders the individual no longer disabled for SSDI purposes.

In the event the Administrator determines, upon completing that review, that the veteran is no longer unemployable, the effective date of the resulting reduction would be fixed in accordance with the facts found. Section 3012(b)(6) of title 38, which generally provides for a delay—until more than 60 days after notice of a reduction is mailed to the veteran—of a compensation reduction based on a change in unemployability status, would be made inapplicable. (Thus, in the event that the review results in the withdrawal of the IU rating, the reduction would be retroactive to the date that the rating had been restored if it was found that, despite the drop in earned income, employability had not been lost. If it was determined that employability had been lost at the time the veteran's earned income dropped below $300 and was subsequently regained, the reduction would take effect as of the date employability was regained.)

This provision is designed to give a veteran who is contemplating an attempt to return to work the assurance that if the veteran becomes substantially unable to continue working after completing a period of trial work and receiving a reduction in disability compensation as a result of working after the trial period, his or her IU rating would be automatically restored on the basis of the reduced earnings. Thus, the veteran would not then be faced with the delays and other administrative difficulties involved in reapplying for the IU rating. Rather, the veteran would have the rating restored, immediately, subject to being later withdrawn upon completion of a mandatory review.

As previously noted, the Committee bill would also provide for certain counseling and other services to be provided to IU-rated veterans and require a VA outreach effort with respect to the pilot project. Thus, the VA would be directed to make available to each veteran with an IU rating, whether or not the veeran is participating in a vocational rehabilitation program under chapter 31 of title 38, certain kinds of counseling and other services provided under that chapter, namely, educational, vocational, psychological, employment, and personal adjustment counseling, job-placement services, and post-placement services to help insure a satisfactory adjustment in employment. These services could be extremely helpful to a seriously disabled veteran who desires to go back to work but is not pursuing a formal rehabilitation program.

To help ensure that IU-rated veterans are aware of their opportunities, the Committee bill has two notification provisions. First, the VA would be required to provide each veteran who has an IU rating (other than one made permanent under the provision in section 110 of title 38 that precludes review of service-connected ratings that have been in effect for 20 years) with information describing and explaining the pilot project and the procedures for participating in a trial-work period and with information about the availability of vocational rehabilitation under chapter 31 and the scope of services and assistance available under that chapter.

Second, the VA would be required, upon receiving notice from a veteran with an IU rating that the veteran desires to participate in a trial-work period, to provide the veteran with notice of the availability to him or her of the counseling and employment services available under the pilot project. This notice would cover some of the same information required in the first notice. However, in most cases a substantial period of time would expire between the time of the first notice and the veteran's beginning to work and providing the veteran, at or near the onset of his or her trial-work period, with information regarding the veteran's eligibility for counseling and employment services in connection with the trial-work period could be very useful to those who might not previously have focused on their eligibility for those services when they were first notified of it or who might have forgotten about it.

The pilot project would be open for new participants for the 36-month period beginning on its effective date (the first day of the fifth full month following enactment). In order to have the benefit of a trial-work period, the veteran would be required, prior to the 37th month after the pilot project's effective date, both to provide notice of his or her work plans and to perform work in at least 1 month. If the Administrator were to exercise the discretion provided by the Committee bill to extend the pilot project for 1 year, the deadline for initiating trial-work periods would be the last day of the 48th month after the effective date.

In order to assist the Committee and the Congress in evaluating the pilot project and the desirability of extending it or making it a permanent program and making any changes in it, the Administrator would be required to submit, within 39 months after the effective date, a report on the results of the first 3 years' experience under the pilot project. The Administrator would be required to include in the report the Administrator's assessments fo the value (including the cost-effectiveness) and effect of the program and any recommendations for administrative and legislative action.

The Committee notes that it has structured this project in the Committee bill as a pilot project of limited duration.

*Rehabilitation evaluations of veterans with IU rating*

In addition to the pilot project, the Committee bill would establish certain new requirements for veterans who, after the end of the fourth full month following the date of enactment, receive IU ratings. The VA would provide each such veteran with notice that he or she must, within 30 days after that notice was mailed to him or her, submit an application for an evaluation under chapter 31 of title 38. If determined to be eligible for that evaluation, the veteran would be required to cooperate in the conduct of it. Also, if the VA were to formulate a vocational rehabilitation program for the veteran under chapter 31, the veteran would be required—within the limits of the veteran's existing chapter 31 entitlement and period of eligibility—to pursue that program.

The VA's vocational rehabilitation counselors have expertise in these evaluations and are trained to be aware of many employment opportunities for a severely disabled veteran who may otherwise believe that he or she is too severely impaired to work. It may be that the veteran needs to be introduced to a new field and trained to perform new tasks. Thus, if the veteran has the potential to participate in a vocational rehabilitation program leading to substantial gainful employment, the need to continue the IU rating could be avoided.

In a case in which the Administrator determines that a veteran has failed to comply substantially with the requirements to cooperate in an evaluation or to pursue a vocational rehabilitation program if one is prescribed, the VA would provide the veteran with notice of a forthcoming review of the veteran's IU rating. Unless the veteran were to resume substantial compliance with these requirements within 60 days after the VA provided the notice (or within such longer period as is the shortest period within which it is reasonably feasible for the veteran to resume compliance), the VA would conduct a review of the determination that the veteran is entitled to an IU rating. The veterans non-compliance with those requirements would be considered in the review. It is the Committee's intent that this requirement, together with the existing vocational rehabilitation program and the availability of the trail-work period, operate to help encourage veterans with IU ratings to take full advantage of the assistance available to help them return to work.

## TITLE II: VETERANS' ADMINISTRATION REHABILITATION AND EDUCATION PROGRAMS

### Part A—Rate Increases

Sections 201 through 203 of the Committee bill would provide a 10-percent increase in the rates of rehabilitation subsistence and education assistance allowances payable to certain veterans and eligible survivors and dependents of veterans under chapters 31, 34, and 35 of title 38. Section 204 of the Committee bill would provide an increase in the rates of certain educational and training benefits received under chapter 36 of title 38. The Committee bill provides for an effective date of October 1, 1984, for all rate increases contained in part A of title II.

The provisions are designed to provide a 10-percent rate increase in subsistence and assistance allowances associated with participation in VA rehabilitation and GI Bill education program to keep pace with increased costs of living and educational expenses since the last rate adjustment in 1981. These benefits were last adjusted by Public Law 96-466, which authorized a two-step, 10-percent increase consisting of a 5-percent increase effective October 1, 1980, and an additional, approximately 5-percent increase effective January 1, 981.

As noted in the testimony submitted by the VA at the June 27 hearing, increases in the cost of education have been substantial since that time. According to data published by the National Center for Education Statistics, U.S. Department of Education, there has been an increase of more than 33 percent from school year 1980-81 through school year 1983-84 in the total costs of tuition, fees, and room and board at all public schools and an increase in such costs of almost 38 percent at all private schools during that period.

The 10-percent rate increases would apply to the subsistence allowances paid to veterans with service-connected disabilities who are participating in a VA rehabilitation program; veterans who are receiving GI Bill educational assistance allowances, including tutorial assistance; eligible survivors and dependents of veterans who are receiving educational assistance or special training allowances; and eligible veterans who are receiving training assistance alowances for certain apprenticeship or on-job training programs.

Although the Committee bill provides for a 10-percent increase instead of a 15-percent increase which the VA had proposed, the effective date of the Committee bill would be October 1, 1984, instead of the Veterans' Administration's proposed effective date of January 1, 1985. This will benefit the recipient by enabling eligible students to receive the rate increase 3 months earlier.

An increase of $2 in the amount paid to educational institutions and training establishments for reporting fees is justified by increased administrative processing costs since the last rate adjustment in the fee in 1977. Reporting fees would be increased from $7 to $9 annually per eligible person for required reports or certifications, and from $11 to $13 annually for each eligible person for whom the educational institution processes and then receives advance payment of VA educational assistance checks.

## Part B—Rehabilitation and Education Program Improvements

### *Tolling Delimiting Dates by Reason of Drug or Alcohol Conditions*

### *Background*

In the GI Bill Improvement Act of 1977, Public Law 95-202, the Congress provided for the granting of extensions of the 10-year GI Bill delimiting period in the case of an eligible veteran or an eligible spouse who is prevented from pursuing a program of education during that period due to a mental or physical disability not the result of willful misconduct. Under that law, the delimiting period does not run during any period of time that the veteran or eligible spouse is determined to have been unable to pursue training because of the disability.

However, there have been a number of instances in which the VA has denied a delimiting-period extension to an otherwise eligible veteran under this authority on the grounds that the disability on which the veteran based his or her claim was an alcohol or drug abuse or addiction disability, which the VA considers categorically to be a condition due to willful misconduct. The VA has based its denial in these cases on the legislative history of the 1977 provision that addressed the issue of how determinations of disability should be made for the purposes of the extension. In particular, the report of the Veterans' Affairs Committee (S. Rept. No. 95-468) on the provision which was enacted as section 203(a)(1) of Public Law 95-202, in discussing the concept of "willful misconduct", stated at pages 69-70:

> In determining whether the disability sustained was a result of the veteran's own "willful misconduct", the Committee intends that the same standards be applied as are utilized in determining eligibility for other VA programs under title 38.

The report further referenced VA regulations and manual provisions relating to the determination of willful misconduct for the purposes of determining service-connected disability. Under the VA's interpretation of those standards (38 CFR section 3.301(C)(2) and (3)) alcoholism and drug addiction and injuries proximately and immediately resulting from the effects of the deliberate ingestion of an alcoholic beverage or voluntary use of a drug—such as an injury incurred in a traffic accident caused by the veteran's driving while under the influence of alcohol or a drug—are considered to be the result of willful misconduct.

In 1979, the Veteran's Affairs Committee reexamined the practical consequences of denying a delimiting period extension in such cases and the differences between awarding such an extension on the grounds of alcohol or drug disabilities and awarding other VA benefits, such as compensation or pension, based on such disabilities. As a result of this reexamination, the Committee saw no substantial purpose to be served by denying a veteran a GI Bill delimiting-period extension when the veteran was prevented by a drug or alcohol disability, during part or all of the ordinary 10-year delimiting period, from using GI Bill educational assistance would have considerable value to achieving and maintaining the medical, social, and economic rehabilitation of veteran recovering from disabilities related to alcohol or drugs.

In contrast, the Committee noted that some undesirable consequences might flow from a similar rule being applied for purposes of other VA benefit programs, such as service-connected compensation, where the rate and duration of benefits depend directly upon the severity and duration of the disability. If an individual were to be granted disability compensation for alcoholism or drug addiction, there would be a strong financial incentive established—in the form of a higher rate of compensation or the continuation of receipt of compensation—toward the worsening or prolongation of the disability. Either of these factors are to some extent within the control of the veteran because they depend upon the amount, frequency, and duration of his or her consumption of alcoholic beverages or drugs.

Thus, the Committee reported in S. 870—and the Senate passed in section 201(2) of H.R. 5288—a provision to establish that an alcohol or drug dependence or abuse disability from which a veteran or eligible spouse has recovered shall not, solely for purposes of deciding requests for delimiting-period extensions be considered to be the result of willful misconduct.

Similarly, in S. 1188, the bill reported by the Committee in 1980 to revise and update chapter 31, relating to VA rehabilitation programs for service-connected disabled veterans, the Senate passed on September 4, 1980, a comparable provision to provide for the tolling of a service-connected disabled veteran's delimiting period for a chapter 31 rehabilitation program on account of an alcohol or drug disability.

However, despite the Committee's strongest urgings, the House would accept neither the GI Bill nor the rehabilitation program provision for delimiting-period extensions based on drug or alcohol disabilities.

In 1981, in connection with S. 921, the proposed "Veterans' Programs Extension and Improvement Act of 1981", the Senate again approved similar provisions, and again the House refused to accept them. In 1982, in S. 2913, the proposed "Veterans' Compensation, Education, and Employment Amendments of 1982", the Senate passed these provisions with revisions to address certain concerns expressed by the VA; again the House refused to accept the Senate provisions.

The Committee believes both that the opportunity to sue GI Bill and VA rehabilitation program benefits can be extremely important to the readjustment and rehabilitation of the Vietnam-era and service-connected disabled veterans involved and that the delimiting-period extensions for those who were, but are no longer, prevented by alcohol or drug disabilities from using those benefits would be fully consistent with the readjustment and rehabilitation goals of both programs.

*Committee Bill Provisions*

Thus, section 210 of the Committee bill contains provisions—largely identical to those of S. 2913 as passed by the Senate in the 97th Congress—that would amend chapters 31, 34, and 35 to permit the Administrator to extend delimiting periods in the cases of veterans and eligible persons who have been prevented from using their education or rehabilitation entitlements under title 38 as a result of alcohol or drug dependence or abuse conditions.

In 1982, in view of certain concerns and objections raised by the VA about the implication of the provision insofar as disability compensation is concerned and about its ability to administer such provisions effectively, the Committee recast the provisions substantially. These provisions, which are contained in the Committee bill, are designed to reflect, even more clearly than the versions prior to 1982, the Committee's intention not to undercut, in any manner, any administrative directives or legislative provisions expressly or implicitly to the effect that alcohol or drug abuse or dependence are necessarily the result of willful misconduct. Hence, the Committee bill would make clear that, for the purposes of determining eligibility for an extension of the applicable delimiting period, an alcohol or drug dependence or abuse condition would not be considered a "disability"; it would simply be considered as a "condition" that could have prevented a veteran or eligible person from pursuing a program of education or participating in a program of vocational rehabilitation.

Next, in recognition of the administrative diffculties that could arise from the enactment of the provisions, the Committee bill unlike the pre-1982 versions would not require that the veteran or eligible person has "recovered" from an alcohol or drug abuse or dependence condition, but rather that such a condition be under control to such an extent as to enable an individual to participate in an apppropriate program. Further, it would facilitate in two ways the making of determinations as to whether the individual had actually suffered from such a condition: (1) by requiring that he or she must have received recognized treatment or participated in a program of rehabilitation for the condition and (2) by authorizing the Administrator to prescribe regulations specifying what specific types of treatment would be recognized for this purpose and what forms of rehabilitation programs would be qualifying. Thus, the Administrator would have the authority to make reasonable determinations as to participation in which programs—such as those offered by Alcoholics Anonymous or other treatment source—would qualify an individual for eligibility under the tolling provisions.

Additionally, the provisions would limit the length of any extension period to the period of time equal to the length of time that the individual particpated in a program of treatment or rehabilitation for the condition plus the period during which the individual was able to demonstrate to the satisfaction of the Administrator that the condition prevented pursuit of a program of education or rehabilitation. However, in no event, could the extension exceed 4 years. Thus, the Committee bill would address concerns that an individual would be able to obtain an extremely long period of tolling the applicable delimiting period.

The Committee also notes that the amendments proposed by the Committee bill would make provison for the measurement of the extension period in a manner identical to that provided for extensions on account of disabilities under current law. That is, the delimiting period would again begin to run—after being tolled—on the first day on which the Administrator determines it is reasonably feasible for the individual to begin training.

In addition, under the amendments made by the Committee bill, the period of time for an individual to file an application under this authority for an extension of the delimiting period would be limited. Applications would be required to be filed within 1 year after whichever is the latest of the date on which the delimiting period would have otherwise expired, the date on which the last period of rehabilitation or treatment for the condition was terminated, or the date on which final regulations to implement the proposed extension authority are published.

Finally, in the one substantive change that has been made from the 1982 version, the Committee bill would require that, in order to be eligible for a tolling of the period of eligibility, a verteran must have been released or discharged from active-duty service under conditions other than dishonorable and that, if the veteran received other than an honorable discharge, the Administrator must make the determination regarding the character of the veteran's discharge on the basis of an individualized review of the veteran's service record.

Under current VA regulations (section 312(a) of title 38, Code of Federal Regulations), general discharges (which the armed services characterize as discharges under honorable conditions) are automatically accepted by the VA as being discharges under conditions other than dishonorable and, thus, as qualifying discharges for purposes of benefits under title 38. Thus, the effect of the Committee bill would be to not allow general discharges to be considered as automatically qualifying for purposes of eligibility for a delimiting date extension under this new paragraph. Rather, it is the Committee's intent that the VA make case-by-case determinations, using the standards set forth in its regulations for determining the character of service of recipients of discharges other than honorable and general discharges, as to whether the service of a recipient of a general discharge is qualifying service for purposes of eligibility for a tolling of the period of eligibility.

In sum, the Committee stresses that it believes that it is simply not necessary to resolve the issue of the relationship of alcohol and drug dependence or abuse conditions to compensation for disabilities in order to make this kind of an education or rehabilitation benefit extension available. Thus, the Committee is again proposing the enactment of this provision in a form that is designed as clearly as possible to avoid this issue and hence enhance the prospects for enactment of this legislation.

### *Repeal of Reporting Requirement*

Section 211 of the Committee bill would repeal a requirement that the Administrator submit to the Congress an annual report on false advertising by institutions approved for VA training.

Section 1796 of title 38, which was enacted in 1974 by section 212 of Public Law 93-508, prohibits the Administrator from approving enrollments in courses offered by institutions that use erroneous, deceptive, or misleading advertising, sales, or enrollment practices. Subsection (d) of section 1796 requires the Administrator to report annually to the Congress on the nature and disposition of all cases arising under that section.

In the report accompanying the bill (S. 2734) from which section 1796 derived (S. Rept. No. 93-907, page 90), the Committee stated that the purpose of this report is to "permit the Congress an opportunity for thorough oversight and review of the operation and administration of this section." In addition, the Committee noted that a more adequate and informative reporting system from the VA's field and regional offices to its central office would ensure more uniformity or interpretation and enforcement, as well as enable trends in and problems with deceptive advertising, sales, or enrollment practices "to be spotted more readily and dealt with in an evenhanded fashion nationally".

Based on the experience over the past 9 years, the Committee has concluded the annual report is no longer necessary, Because the Committee believes that unnecessary reporting requirements and paperwork should be eliminated whenever feasible, the Committee bill would, therefore, repeal the requirement for this annual report. However, the Committee does not intend by this action to suggest that erroneous, deceptive, or misleading advertising, sales, or enrollment practices should not continue to be monitored at the national level. Indeed the Committee expects that the Administrator will notify the Congress of any serious new trends that arise in this area and of any need for remedial legislation that may arise in that regard.

### *Term-by-Term Certifications*

On June 30, 1983, the VA published in the Federal Register proposed regulations to modify the manner in which students attending school and receiving VA assistance under chapter 34 or 35 of title 38 are certified as enrolled for the purposes of receiving benefits. At present, veterans may be certified as enrolled for periods longer than a term, semester, or quarter. Thus, for example, a veteran enrolled in a program of education at an institution of higher learning at the beginning of the fall trimester may be certified by the school as enrolled for the entire school year—including the fall, winter, and spring trimesters.

Under the proposed regulations, this practice would no longer be permitted. Instead, students would be required to have the institution certify their enrollment at the beginning of each term, semester, or quarter.

The Committee is aware of the concerns expressed by a number of students and institutions about this proposed change and the effect it could have on the paperwork burdens of both the institutions and the VA and on the timeliness of benefit payments at the outset of school classes. Indeed, the VA has advised the Committee that if a term-by-term enrollment certification is required, almost 740,000 additional certifications will need to be processed in fiscal year 1985 and more than 2.2 million more in fiscal years 1986 through 1989.

The Committee is also aware of and sympathetic to the VA's purpose in pursuing this change in policy—that is, the achievement of savings by reducing overpayments of educational benefits. The VA's Office of the Inspector General has estimated that, from fiscal year 1985 through fiscal year 1990, the cost of implementing the proposal will be $11.3 million, but that the new policy will avoid the establishment of almost $150 million in overpayments.

The Committee firmly believes that the VA needs to make maximum efforts to control overpayments. However, the Committee also believes that the educational community should have full opportunity to make its views known on whether such administrative requirements impose unnecessarily restrictive or burdensome procedures and to have those views fully evaluated and considered prior to the implementation of any changes in the certification process.

Thus, the Committee was pleased to learn that the Administrator's Advisory Committee on Education, established pursuant to section 1792 of title 38, is reviewing the proposal and is expected to make recommendations on it. The committee believes that it is both important and necessary for the Administrator to have input from the Advisory Committee, which includes experts in the area of higher education, before putting in place any changes in the enrollment certification process. Thus, section 212 of the Committee bill would prohibit the Administrator from making any changes in the process prior to receiving the recommendations of the Advisory Committee.

## TITLE III: VETERANS' EMPLOYMENT PROGRAMS

### *Veterans Readjustment Appointments*

Section 301 of the Committee bill would extend for 1 year the expiring authority in section 2014(b) of title 38 for veterans readjustment appointments (VRA's), providing veterans receiving VRA's with limited appeal rights during the first year of employment, and modify a reporting requirement applicable to the Office of Personnel Management (OPM).

The VRA authority, which expires under current law on September 30, 1984, permits certain disabled Vietnam-era veterans and educationally disadvantaged Vietnam-era veterans to be given excepted appointments in the Federal civil service. The program was established in 1970 when as many as a million men and women a year were leaving the military, aggravating and already serious unemployment problem among Vietnam-era veterans. In early 1971, unemployment among young veterans was reaching as high as 16 percent among veterans 20–24 years old. The program was intended to assist these veterans by making it possible for them to be hired noncompetitively into the Federal civil service and to develop additional skills through a program combining education and training with the opportunity for a regular career appointment.

The Committee recognizes that the VRA program has been successful in that it has provided employment for tens of thousands of those Vietnam-era veterans who would otherwise, because of a variety of factors, not have been able to obtain Federal employment, and also has served as a fine example to the private sector of the Federal Government's interest in hiring recently separated wartime veterans. For these reasons, the Committee bill would extend the VRA program for one additional year.

In addition, the Committee bill—based upon a proposal made by the Administration in a February 24, 1984, letter to the President of the Senate from OPM Director Donald J. Devine—would provide that a veteran who receives a VRA appointment and who is terminated during the first year after the date of the appointment has the same right to appeal the termination to the Merit Systems Protection Board (MSPB) as a career or career-conditional employee has during the first year of employment. At present, veterans with VRA's have no appeal rights until they have completed 1 year of employment. At that point—under subchapter II of chapter 75 of title 5, United States Code, relating to certain adverse actions against Federal employees, and, specifically, section 7511(a)(1), which includes a preference eligible who has completed 1 year of continuous service in the definition of an employee for purposes of the procedural rights afforded under that subchapter—these veterans have the right to appeal terminations and certain other adverse actions to the MSPB.

However, career and career-conditional employees who are in probationary status (first-year employees) do have certain limited appeal rights with respect to terminations. These appeal rights, enunciated in section 315.806 of title 5 of the Code of Federal Regulations, provide these first-year employees with the right to appeal, on procedural grounds only, terminations for conditions that arose before their employment began and the right to appeal terminations alleged to be based on discrimination on account of partisan political reasons or marital status. Thus, the effect of the Committee bill would be to grant first-year VRA appointees these same limited appeal rights.

Finally, the Committee bill would also—based upon a proposal made by the Administration and reflected in Director Devine's February 24 letter—provide that a report, required under current law to be submitted semiannually by OPM, be submitted only on an annual basis. This report includes a review and analysis of the Federal Government's implementation of the VRA authority and other employment programs for veterans.

### *Emergency Veterans' Job Training Act Program*

Section 302 of the Committee bill would amend the Emergency Veterans' Job Training Act of 1983 (Public Law 98-77) (hereinafter referred to as "EVJTA") to extend by 6 months the date by which a veteran must enter a program of job training in order for a payment of assistance to be made to an employer on the veteran's behalf and to extend the life of certificates of eligibility provided to veterans who have been determined to be eligible for the program established by that Act.

EVJTA, enacted on August 15, 1983, was designed to provide employers with incentives, in the form of payments to defray training costs, to hire and train long-term unemployed Korean-conflict and Vietnam-era veterans. Section 17(a) of EVJTA provide that, if funding for the program had been appropriated and made available to the VA by October 1, 1983, a veteran desiring to participate would be required to apply by September 30, 1984, and to enter a program of training by December 31, 1984. However, in recognition of the possibility that appropriations might not become available by that date, the law provided for a tolling period. Under this mechanism, in section 17(b) of the law, the veterans has until 1 year after the date on which appropriations are made available for the program to apply and until 15 months after that to enter training.

The first $75 million in funds for the program were appropriated on November 14, 1983, as part of a continuing appropriations for fiscal year 1984, Public Law 98-151. Since these funds were not made available to the VA until November 29, 1983, eligible veterans have until November 29, 1984, to apply and until March 1, 1985, to enter training. (The remainder of the full amount authorized by section 16 of EVJTA for fiscal year 1984 for payments to employers under this program, $150 million, was provided when a second $75 million appropriation was included in the fiscal year 1984 supplemental appropriations measure, Public Law 98-181, enacted on November 30, 1983.)

Despite the very high degree of interest shown in the program—particularly among veterans—it got off to a very slow start. As of August 20, according to the VA, 237,887 veterans had applied for the program and 192,274 had been certified as eligible. Also as of that date, 25,707 employers had been approved to offer training for 57,256 job slots.

Nevertheless, despite strong interest in the program, the number of veterans actually placed in training slots has been most discouraging. Only 12,626 veterans—or slightly more than 6.5 percent of those determined eligible—are actually in training under the new program, and only 22.1 percent of the training slots have been filled. As a result only $54.9 million made available for the program has been obligated as of August 20, 1984.

The Committee recognizes that because the program is a new one, the expertise and experience gained over the past 9 months that could have enhanced early implementation was not available previously and that matching eligible veterans with available jobs, especially in areas of high unemployment, is a difficult task with which certain delays are necessarily associated.

Thus, the Committee has concluded that the program should be given additional time in order to achieve its potential. To provide an appropriate opportunity for the program to meet eligible unemployed veterans' needs, the Committee bill would postpone by 6 months, from March 1, 1985, to September 1, 1985, the date by which a veteran must begin training under the program. The Committee notes that the effect of this extension would not be to enlarge the potential poor of veterans who could be eligible for the program—which is limited to those applying for certificates of eligibility prior to November 29, 1984. Rather, the effect would be to provide those who have already been determined to be eligible with additional time to secure training positions and begin training under the program.

In addition, the Committee bill would provide an extension of the period of time during which funds already appropriated for the measure will remain available. Under current law, the funds appropriated for the program will remain available until September 30, 1986. The Committee bill would extend the funding availability, by 1 year, until September 30, 1987, to ensure that payments can be paid to employers for the duration of the training programs that begin during the 6-month extension of the period for entering training. This provision does not authorize any additional appropriations but simply extends the period of time that the already appropriated funds are to remain available.

Finally, the Committee bill would extend the life of a certificate of eligibility provided to a veteran who has been determined to be eligible for the program. Under current law, these certificates are good for 60 days, and during that period the veteran can present them to an approved employer for pusposes of entering a job training program. This 60-day period appears to be too short a time and, as a result, may be producing unnecessary and time-delaying paperwork in the form of applications for certificate renewals. Extending this period to 90 days, as the Committee bill would do, should greatly reduce this problem.

The Committee notes that veterans who have been certified as eligible for the program and whose certificates of eligiblity have expired may apply for recertificati on. It should be noted that these recertifications could be made following the last day of the period in which to make application—November 29, 1984. Therefore, veterans who applied prior to that date and who are certified as eligible could be recertified for 90-day periods following that date.

## TITLE IV: VETERANS' ADMINISTRATION NON-SERVICE-CONNECTED DISABILITY PENSION

### *Trial-Work Period Pilot Project*

Section 401 of the Committee bill would establish a 3-year pilot project (which the Administrator could extend to 4 years) under which a needy wartime veteran receiving non-service-connected disability pension on the basis of actual disability could participate in a one-time period of trial work without losing permanent and total disability status and pension-based VA health-care eligibility. Also, under the pilot project, the VA health-care eligibility of veterans whose VA pensions are terminated due to income derived from participation in a VA or State vocational rehabilitation program would be protected and, in certain circumstances, a subsistence allowance received by a veteran participating in such a rehabilitation program would be disregarded in determining the veteran's income for VA pension purposes.

### *Background and Purposes*

To be entitled to benefits under the VA's non-service-connected pension program for needy wartime veterans, a veteran must have some wartime service, must be either permanently and totally disabled or over 65 years of age, and must have total annual income less than the income standard applicable to his or her situation. For example, the annual income standard for a veteran with no dependents is $5,515; for a veteran with a spouse and one child, $8,160; and for a veteran who has a spouse and is in need of regular aid and attendance, $10,533.

A veteran-pensioner receives monthly pension payments based on the amount by which the applicable income standard exceeds his or her income. In addition, by virtue of pension status, a veteran is eligible for VA health care—specifically, hospital care, limited post-hospital nursing-home care, pre- and post-hospital outpatient care, and outpatient care necessary to obviate the need for hospital care—without meeting the requirement, generally applicable to non-service-connected disabled veterans under age 65, of being unable to defray the costs of the care. A veteran-pensioner who is in need of regular aid and attendance or is permanently housebound has general eligibility for VA outpatient care, including certain limited contract-care eligibility and has an outpatient care priority ahead of all other veterans without service-connected disabilities except former prisoners of war and certain veterans receiving treatment for disabilities that might be the result of their exposure to dioxin or ionizing radiation.

Under VA regulations (section 4.17 of title 38, CFR), a needy, non-service-connected disabled veteran under age 65 will be considered "permanently and totally disabled" for pension purposes, if he or she is determined to be "unable to secure and follow a substantially gainful occupation by reason of disabilities * * * likely to be permanent". As under the service-connected disability compensation program (as discussed above in connection with section 110 of the Committee bill), the determination of total disability based on unemployability can be subjective and remains open for review.

The Committee believes that a disabled pensioner who desires to return to work may initially be discouraged from doing so because the veteran may be concerned that an attempt to return to work could jeopardize his or her future pension payments. The veteran-pensioner may be concerned that he or she would no longer be considered unemployable, even if his or her work income is less than the applicable income standard and the pensioner has no other income. Veteran-pensioners may also be concerned that they may not be able to be redetermined to be unemployable—even if they find that they are unable to maintain long-term employment—if their work income results in the income standard being exceeded and their pension terminated. In any such situations, the veteran may have the most concern about the possible loss of VA health-care eligibility and, if applicable, priority in outpatient care.

A program similar to that proposed in the Committee bill already exists fro disabled recipients of supplementary security income (SSI), the needs-based Federal income-maintenance program for elderly and disabled persons. Under section 1614(a)(3) and (4) of the Social Security Act, trial-work periods, together with an up-to-15-month delay in benefit termination based on work performed after the end of the trial-work period, along the lines of those provided for Social Security disability insurance beneficiaries (as described above in the discussion of section 110 of the Committee bill) are available for SSI recipients.

The Committee bill considers it desirable to provide every reasonable opportunity and encouragement, consistent with general principles governing title 38 programs, for disabled veteran-pensioners to return to work. Thus, section 401 of the Committee bill would establish a pilot project under which these veterans would be provided with the opportunity to participate in trial-work periods patterned after the trial-work period concept under the SSDI/SSI programs with certain modifications.

The pilot-project provisions in the Committee bill are designed to make it possible to determine whether there is a substanital possibility that disabled veteran-pensioners are more likely to find it advantageous to try to return to work if their disability status and VA health-care benefits are protected for an extended period. Of course, to the extent that this trial-work project helps veteran-pensioners return to and maintain employment, the project would produce saving in VA persion benefits.

*Committee Bill Provisions*

Specifically, the Committee bill would establish a trial-work period pilot project that would take effect at the start of the fifth full month after the date of enactment and remain in effect for a period of 36 months, which the Administrator could extend to 48 months. A trail-work period would consist of a period of 36 consecutive months beginning on that date that the veteran begins to perform work. In order to participate in a period of trial work, the veteran would have to give the VA written notice, not later than 30 days after starting to work, of his or her plans to work and to participate in a trial-work period. Work performed by the veteran during his or her period of trial work could not be taken into account in any review of the veteran's unemployability status.

The trial-work provision would thus give the veteran-pensioner under age 65 the opportunity to make an effort to return to work without running any risk, during the first 36 months after starting work, that his or her working during that period would result in a determination, under the VA regulations noted above, that he or she has regained the ability "to secure and follow a substantially gainful occupation by reason of disabilities" and is thus ineligible for pension.

As under the trial-work period provision for service-connected disabled veterans with IU ratings (section 110 of the Committee bill), activity determined by the Administrator to be of a type normally performed for remuneration or gain would be treated the same as activity that actually is performed for remuneration or gain. The Committee intends the VA, in implementing the pension trail-work period proposed in the Committee bill, to apply the same concept relating to unremunerated work activities as it described in the prior discussion of the compensation trial-work period provision for IU-rated veterans.

The Committee bill would also protect the veteran-pensioner's VA health-care eligibility during a trial-work period. Where a veterans's pension is terminated because the veteran's work income causes his or her pension income standard to be exceeded, the veteran would retain his or her pension-based VA health-care eligibility and any priority in outpatient care that he or she had as a pensioner. The Committee bill would also provide for extended protection of the VA health-care eligibility of a veteran whose pension entitlement is terminated by reason of income from work or training either during the veteran's participation in or following the veteran's completion of a vocational rehabilitation program under chapter 31 of title 38 or under the Federal-State program under title I of the Rehabilitation Act of 1973. The veteran would retain that health-care eligibility for 1 year after the termination of either the veteran's pension or the veteran's participation in the vocational rehabilitation program, whichever is later. These provisions are designed to help determine whether the continuation of VA health-care eligibility would encourage disabled pension recipients attempting to return to work.

Finally, the Committee bill would provide for one type of income to be disregarded in the computation of a veteran's income for pension purposes. If the veteran is participating in a vocational rehabilitation program under chapter 31 of title 38 or under the Federal-State program under title I of the Rehabilitation Act of 1973, payment to the veteran of a subsistence or maintenance allowance under that program for any month during which it is necessary for the veteran to reside away from the veteran's permanent residence in order to participate in the program would not be counted as income to the veteran. Since, under current law, any subsistence or similar allowance payments are not disregarded in the computation of the veteran's income and his or her pension thus is reduced dollar-for-dollar for any such payments, the payment of the allowance to the veteran may not serve its purpose of encouraging and facilitating the veteran's participation in the training. Thus, this provision would help ensure that any discouragement to the disabled veteran-pensioner that may be caused by the unreimbursed costs-of-living away from home in order to pursue vocational rehabilitation does not interfere with the Committee's effort to learn whether and how more of these pensioners can be helped in returning to the workforce.

The trial-work period pilot project for pension recipients would be open for new participants for the same 3-year period and under the same conditions provided for IU-rated veterans, as described earlier in the discussion of section 110 of the Committee bill. Likewise, a provision for a 1-year extension of the pilot project for pensioners, substantively identical to the extension provision in section 110, is included in the Committee bill, and the same type of report would be required on the first 3 years' experience under this pilot project as would be required by section 110 with regard to the pilot project for veterans with IU ratings.

The Committee notes that it has structured this project in the Committee bill as a pilot project of limited duration.

### *Report on Medical Examinations of Certain Pension Recipients*

Section 402 of the Committee bill would require the Administrator of Veterans' Affairs to submit to the Congress not later than 28 months after the enactment of this Act a report (including a statistical tabulation) on the results of medical examinations which would be conducted for certain veteran-pensioners. This provision would apply to veterans who, during the of 2-year period after the date of enactment of the Committee bill, are awarded pension for non-service-connected permanent and total disability by reason of being 65 years of age or older, meeting the income criteria, and having had wartime service. In order to obtain the information necessary for the report, the Administrator would be required to conduct a medical examination (similar to the examination conducted for veterans under age 65 applying for pension under chapter 15 of title 38, United States Code or for veterans applying for compensation benefits under chapter 11 of title 38, United States Code) of each such veteran, to determine what, if any, percentage rating would be applicable to the veteran under the disability compensation rating schedule adopted pursuant to section 355 of title 38, United States Code. The medical examination would be conducted not later than 90 days after the veteran is awarded pension.

The provision would not affect any veterans receiving pension on the date of enactment.

The schedule of disability ratings adopted under section 355 of title 38, is designed to reflect reductions in a veteran's earning capacity as a result of a service-connected disability or combination of disabilities. The schedule of ratings provides for 10 grades of disability upon which compensation benefits for service-connected disabilities are based, ranging from 10- to 100-percent disability, with intermediate grades of 10-percent multiples.

Veterans under age 65, who qualify for pension must have been determined first to be totally and permanently disabled under the VA's schedule of disability ratings. Pursuant to VA regulation, section 4.17, veterans between ages 55–59 and 60–64, who apply for VA pensions, are required to be only 60 percent and 50 percent disabled, respectively, to be considered permanently and totally disabled.

It is the Committee's intent that all new pension recipients over age 65 cooperate with the VA's efforts to prepare the mandated report based on the VA medical examinations and assignment of a schedular disability rating. It is further the Committee's intent that the report on the results of the medical examinations provide sufficient statistical information to enable the VA and Congress to learn more about the health status of older, needy wartime veterans who currently become automatically eligible for pension solely by reason of their age and income status. The statistical tabulation of the results of the medical examinations conducted for purposes of the report pursuant to this provision should provide detailed information which is not presently available on the actual disabilities of such veteran-pensioners. It is also the Committee's intent that the information required to be reported document whether there are serious health problems for this category of veteran-pensioners and indicate whether these veterans would have been eligible for pension without the automatic age-based eligibility.

## TITLE V: OTHER BENEFIT RATE INCREASES

### *Specially Adapted Housing Assistance Increase*

Section 501 of the Committee bill would increase by 10 percent, from $32,500 to $35,750, effective July 1, 1985, the maximum amount payable in specially adapted housing assistance, under the so-called "wheelchair home" program, to certain veterans with total and permanent service-connected disabilities that impair their mobility. Section 501 would also increase by 10 percent, from $5,000 to $5,500, effective July 1, 1985, the maximum amount payable in adapted housing assistance to certain veterans who suffer from service-connected blindness or who have suffered the loss or loss of use of two upper extremities. These programs are codified in chapter 21 of title 38, United States Code.

Under the wheelchair home program, the VA provides veterans who have certain permanent and total service-connected disabilities involving mobility impairments with assistance in acquiring suitable housing with adaptations made necessary by the nature of their disabilities. Under current law, these disabled veterans are eligible for a grant not to exceed 50 percent of the cost of the home and necessary land, up to a maximum grant of $32,500. Veterans eligible for housing assistance grants are principally quadraplegics, paraplegics, amputees, and certain others who, because of their service-connected disabilities, require the use of a wheelchair, braces, cane, or crutches to move about. Their disabling conditions typically require ramps, special bathroom equipment, extra-large rooms and halllways, and various other adaptations that are extremely helpful for their health and safety.

Increases in the maximum amount of the grant have been provided periodically. When originally enacted in Public Law 80-702 in 1948, the specially adapted housing program provided for assistance of up to $10,000. At that time, the average cost of construction for a new single-family residence was $7,800. Housing construction costs have risen enormously since then, and the maximum amount of assistance has been increased on five occasions. The last increase, up to $32,500, effective October 17, 1981, was made by section 502(1) of Public Law 97-66. At that time, according to the VA, the average cost of a home was $59,000. In 1984, that cost has increased to $68,000.

By raising the maximum limit of the assistance by 10 percent, to $35,750, the Committee bill would help ameliorate the erosion in the value of this benefit made by increases in construction costs over the last 3½ years.

In addition, the Committee bill would increase, effective July 1, 1985, the maximum amount of assistance for special housing adaptations that is available to certain veterans suffering from service-connected total blindness or the loss or loss of use of both upper extremities. This program of assistance, payable pursuant to section 801(b) of title 38, was enacted in 1980 by section 301 of Public Law 96-385. Under this program, an eligible veteran is entitled to assistance, up to a maximum of $5,000, for the purposes of making special adaptations that the Administrator determines are reasonably necessary because of the veteran's disability. This maximum amount has not been increased since the program began in 1980. Thus, the Committee bill, by providing for a 10-percent increase in this grant, would also help ameliorate the erosion in the value of this benefit made by increases in construction costs.

### *Automobile Assistance Allowance Increase*

Section 502 of the Committee bill would increase by 10 percent, from $4,400 to $4,840, effective July 1, 1985, the amount of the automobile assistance allowance provided by the VA to veterans with certain severe, service-connected disabilities.

The program of automobile assistance grants—now codified in chapter 39 of title 38, United States Code—was established by the Congress in Public Law No. 663, 79th Congress, enacted in 1946. Under this program, veterans who have suffered the service-connected loss or loss of use of one or both feet or hands or service-connected blindness are entitled to a one-time VA grant to assist them in purchasing an automobile.

Public Law 91-666, enacted in 1970, increased, effective January 11, 1971, the maximum amount of the allowance payable toward the purchase of an automobile or other conveyance from the original $1,600 maximum to $2,800. Public Law 93-548 increased the maximum to $3,300, effective February 1975, and Public Law 95-479 increased it to $3,800, effective October 1, 1978. The increase to the current level of $4,400 was enacted by Public Law 97-66, effective October 1, 1981.

Since the effective date of the last increase, October 1, 1981, the Bureau of Labor Statistics' (BLS) Consumer Price Index component for new automobiles has risen by 7.4 percent. The Committee recognizes that the Department of Commerce compiles data on the average automobile cost that shows that a higher increase has occurred over the same period of time—18.7 percent. However, that figure represents the average cost of all makes and models of all automobiles, without taking into account the buying patterns of American consumers as do the BLS figures. The Committee believes—particularly when faced with the current, great need to exercise fiscal constraint—that the need for increases in the maximum amount of the allowance is more accurately measured by the BLS data.

Thus, section 502 of the Committee bill would increase the automobile assistance allowance to $4,480, effective July 1, 1985, so as to help ameliorate the erosion in the value of this benefit resulting from increases in the cost of automobiles.

## TITLE VI: MISCELLANEOUS PROVISIONS

### *Definition of Vietnam Era*

Section 601 of the Committee bill would, effective October 1, 1984, or on the date of enactment, whichever is the later, expand the definition of the Vietnam era for the purposes of title 38, United States Code, to include the period beginning on February 21, 1961, and ending on August 4, 1964, in the case of those who served in Vietnam during that time. On May 25, 1984, a substantially identical provision was included in section 8 of S. 2514 as reported, the proposed "Veterans' Administration Health Care Amendments of 1984". The provision in the Committee bill would expand the population of wartime veterans and survivors eligible for, among other benefits, the VA's need-based non-service-connected pension program and, thus, would involve new entitlement spending—as would the provisions of section 14 of S. 2514 as reported, which would provide for certain income to be disregarded for purposes of determining and calculating the amount of a veteran's or survivor's VA pension entitlement. These sections of S. 2514 as reported were deleted from that bill on a motion of the Committee during consideration by the Senate of that bill on August 8—solely for the purpose of avoiding a problem under the Congressional Budget Act of 1974, related to the fact that they involve entitlement spending. The deletion on August 8 was made with a view toward their inclusion in this bill, a measure generaly involving entitlement spending for which the Committee has reported to the Senate a single waiver resolution under section 303(c) of the Congressional Budget Act. This resolution is discussed at the very end of this discussion.

Rather than reiterate the explanation of and justification for this provision dealing with the expanded definition, which are set forth in the portion of the "DISCUSSION" in the Committee's report on S. 2514 dealing with section 8 of S. 2514 as reported (S. Rept. No. 98-487, pages 53-54), the Committee incorporates that portion of that report by reference.

### *Payments for Therapeutic and Rehabilitation Activity*

Section 602 of the Committee bill would require the VA to conduct a 39-month demonstration project—and submit by February 1, 1987, a report on the first 2 years' experience—under which the income received by veterans for their participation in VA incentive and compensated work therapy programs would not be counted as income for the purpose of VA pension programs. It would further specify that a veteran's participation in a VA incentive or compensated work therapy program will not be considered a basis for denying or discontinuing a total disability rating for VA compensation or pension purposes. On May 25, an identical provision, was included by the Committee in section 14 of S. 2514 as reported, the proposed "Veterans' Administration Health Care Amendments of 1984". For the reasons noted above, in the discussion of section 601 of the Committee bill ("Definition of Vietnam Era"), section 14 of S. 2514 deleted by a floor amendment in contemplation of it being included in the Committee bill.

Rather than reiterate the explanation of and justification for this provision set forth in the portion of the "Discussion" in the Committee's report on S. 2514 dealing with section 14 of that bill (S. Rept. No. 98-487, pages 95-97), the Committee incorporates that portion of the report by reference.

### *Effective Date of Reductions of Certain Dependents' Allowances*

Under current law, section 3012(b) of title 38, United States Code, provides an exception to the general rule concerning the effective date of discontinuance of compensation, dependency and indemnity compensation, or pension, based on the termination of school attendace of a payee or a dependent of a payee. Section 3012(b)(7) currently provides that the benefits will not be reduced or discontinued until the last day of the month during which the student's school attendence is discontinued. This provides an additional period of benefits not generally allowable under the general rule, which would reduce or discontinue such benefits in accordance with the "facts found", that is, in this case, the date on which school attendance is discontinued.

Section 603 of the Committee bill would abolish this special exception and would thereby establish the effective date for a reduction or discontinuance of these benefits as the day following the date of last attendance at the educational institution. This change was proposed by the VA and would be in conformance with the rule governing discontinuance of benefits paid on behalf of certain dependents under age 18, which terminate as of the date of the dependent's eighteenth birthday. The Committee believes this provision will produce a more equitable result by providing VA benefits paid on behalf of eligible students only for the time such students are actually attending an educational institution.

### *Suspensions of Compensation and Pension Payments to Certain Institutionalized Veterans*

Under current law, section 3203(b)(1) of title 38, United States Code, provides that pension and compensation benefits paid to an incompetent veteran (having no spouse or child) who is hospitalized or institutionalized at Government expense, must be discontinued, if the veteran's estate equals or exceeds $1,500 and that pension or compensation benefits may not be reinstated until the estate is reduced to $500.

Section 604 of the Committee bill would amend section 3203(b)(1) to exclude the value of the veteran's home from the estate, unless there is no reasonable likelihood that the veteran will again reside in such home.

The Veterans' Administration proposed a similar legislative change because of the inequity that the current law imposes on some single incompetent veterans. The prepared testimony of Dorothy Starbuck, Chief Benefits Director of the Veterans' Administration, submitted for the June 27 hearings explains the reasons why the value of the veteran's home should be excluded from his or her estate:

> This $1,500 estate limitation applies to an incompetent veteran institutionalized at Government expenses who has no immediate family. If the veteran's estate exceeds $1,500, further payments of compensation or pension are withheld until the estate is reduced to $500. The purpose is to prevent the accumulation of monies not needed by the veteran and likely to descend, upon the veteran's death, to remote heirs or to escheat. The value of the veteran's home is, of course, part of his or her estate. If the veteran's compensation or pension payments were earmarked for home mortgage and other property-related payments, the veteran may be forced into default once withholding begins. We know of several cases in which veterans affected by the $1,500 limitation were homeless upon discharge from the hospital. Under our proposal, the value of the veteran's home would be excluded in the estate determination, except in cases where there is no reasonable probability of the veteran's eventual discharge from the institution.

The Committee believes that this provision would provide an equitable remedy to the harsh reality experienced by those single incompentent veterans, who may lose their homes because their VA compensation or pension benefits are terminated during temporary periods of hospitalization under the existing $1,500 estate limitation.

### *Deletion of Gender References*

Section 605 of the Committee bill would amend section 103 of title 38, United States Code, to remove various gender references that appear there. The Committee has been endeavoring for some time to remove these references and will continue this effort in the future.

### *Budget Act Waiver*

Various provisions of the Committee bill—for example, the cost-of-living increases in compensation, DIC, and GI Bill benefits—provide for new entitlement spending to take effect during fiscal year 1985. However, under section 303(a) of the Congressional Budget Act of 1974, it is not in order for the Senate to consider legislation providing entitlement spending to take effect during a fiscal year until the Congress has adopted a first concurrent resolution on the budget for that fiscal year. The Congress has not yet adopted a first budget resolution for fiscal year 1985.

In an effort to secure timely Senate consideration of the Committee bill, the Committee has by poll unanimously ordered reported and is filing simultaneously with this report a Senate resolution, pursuant to section 303(c) of the Budget Act, providing for a waiver of section 303(a) with respect to the Committee bill.

Under Budget Act section 303(c) that resolution will be referred to the Senate Committee on the Budget for not more than 10 days during which the Senate is in session. The Veterans' Affairs Committee urges prompt consideration and favorable action on that resolution and stands ready to assist in any way that it can with Budget Committee and Senate consideration thereof.

The text of the resolution reads as follows:

98th CONGRESS
2nd SESSION

# S. RES. ____

(Note.—Fill in all blank lines except those provided for the date and number of resolution.)

IN THE SENATE OF THE UNITED STATES

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Mr. SIMPSON, for the Committee on Veterans' Affairs, reported the following original resolution; which was ________

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# RESOLUTION

Providing for the waiver of section 303(a) of the Congressional Budget Act of 1974 with respect to S. 2736 as reported by the Senate Committee on Veterans' Affairs.
(Insert title of resolution here)

Whereas the provisions of S. 2736 as reported, the proposed "Veterans' Administration Benefit Rate Increase and Program Improvement Act of 1984", would make cost-of-living adjustments, effective December 1, 1984, in the rates of Veterans' Administration compensation for service-connected-disabled veterans and dependency and indemnity compensation for survivors of veterans who have died from service-connected causes and, effective October 1, 1984, in the rates of GI Bill educational assistance and Veterans' Administration rehabilitation subsistence allowances; and

Whereas, since Senate consideration of S. 2736 at the present time, before a first concurrent resolution for fiscal year 1985 has been adopted, would violate section 303(a) of the Congressional Budget Act of 1974 in that the bill would provide new spending authority described in section 401(c)(2)(C) of that Act to become effective in fiscal year 1985, a waiver of section 303(a) of that Act is necessary to provide for the timely consideration of S. 2736: Now, therefore, be it

Resolved by the Senate, That, pursuant to section 303(c) of the Congressional Budget Act of 1974, section 303(a) of that Act be waived with respect to S. 2736 as reported.

## COST ESTIMATE

In compliance with paragraph 11(a)(1) of rule XXVI of the Standing Rules of the Senate, the Committee, based on information supplied by the Congressonal Budget Office, estimates that the costs resulting from the enactment of the Committee bill during the first 5 years following enactment would be $556.4 million in budget authority and $510.9 million in outlays in fiscal year 1985; $680 million in budget authority and $678.7 million in outlays for fiscal year 1986; $626.3 million in budget authority and $629.3 million in outlays for fiscal year 1987; $582 million in budget authority and $583.8 million in outlays for fiscal year 1988, and $544.7 million in budget authority and $546.7 million in outlays for 1989. A detailed breakdown of the costs, as estimated by CBO, over the 5-year period follows:

CONGRESSIONAL BUDGET OFFICE

COST ESTIMATE

September 14, 1984

1. BILL NUMBER: S.2736

2. BILL TITLE:

Veterans Administration Benefit Rate Increase and Program Improvement Act of 1984

3. BILL STATUS:

As ordered reported by the Senate Committee on Veterans' Affairs, July 25, 1984.

4. BILL PURPOSE:

To increase the rates of veterans' disability compensation and dependency and indemnity compensation (DIC), and for other purposes.

5. ESTIMATED COST TO THE FEDERAL GOVERNMENT:

(by fiscal years, in millions of dollars)

| | 1985 | 1986 | 1987 | 1988 | 1989 |
|---|---|---|---|---|---|
| Budget Authority a/ | 556.4 | 680.0 | 626.3 | 582.0 | 544.7 |
| Outlays | 510.9 | 678.7 | 629.3 | 583.8 | 546.7 |

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a/ The programs addressed by this bill are entitlement programs for which annual appropriations are mandatory.

The cost of this bill would fall in budget function 700.

Basis for Estimate:

The following section-by-section cost analysis addresses only those sections of the bill that would be expected to have a significant budgetary impact.

Sections 101-107: These sections would increase by 4.7 percent the monthly rates of disability compensation and of dependency and indemnity compensation (DIC) as of December 1, 1984.

(by fiscal years, in millions of dollars)

| | 1985 | 1986 | 1987 | 1988 | 1989 |
|---|---|---|---|---|---|
| Budget Authority | 392.2 | 463.6 | 455.1 | 444.6 | 433.3 |
| Outlays | 354.0 | 464.3 | 455.8 | 445.4 | 434.3 |

The cost of these sections was estimated by multiplying the average costs in each year for all disability compensation cases and for all DIC cases by 4.7 percent. The resulting average increases in costs per year were then multiplied by the estimated number of cases in each program each year to calculate the annual cost. Future average cost and caseload levels were projected according to historical trends for veterans and survivors by period of service. It was determined from the historical monthly spending pattern that approximately 83.2 percent of the fiscal year 1985 costs would occur between December 1, 1984 and the end of the fiscal year under current law. This percentage was applied to the estimated cost for 1985 to reflect the December effective date.

Section 108: This section specifies that, if the Social Security rate increase effective on December 1, 1984 is equal to a percentage other than 4.7, then the rates of disability compensation and DIC would be adjusted by the same percentage as the Social Security rates, rather than by 4.7 percent.

According to the economic assumptions underlying both the House-passed and Senate-passed versions of the budget resolution, the Social Security increase to be effective on December 1, 1984 was estimated at 4.7 percent. Thus, under these assumptions the costs shown above for the compensation increase would need no adjustment to comply with this provision. However, a more recent set of economic assumptions (see Congressional Budget Office, The Economic and Budget Outlook: An Update, August 1984) indicates that the Social Security increase may only be 3.2 percent. If these assumptions should prove to be correct, the cost of a similar increase in compensation and DIC rates would be as follows:

(by fiscal years, in millions of dollars)

|  | 1985 | 1986 | 1987 | 1988 | 1989 |
|---|---|---|---|---|---|
| Budget Authority | 267.0 | 315.7 | 309.8 | 302.6 | 295.0 |
| Outlays | 241.0 | 316.1 | 310.4 | 303.2 | 295.7 |

Section 110: This section would establish a trial work pilot program designed to encourage certain disabled veterans to seek employment. Some veterans, whose disability — or, more often, combination of disabilities — is rated less than 100 percent disabling under the Veterans Administration (VA) rating schedule, are nonetheless disabled to the point that they are unable to obtain and retain gainful employment. In these cases the veteran is assigned an individual unemployability rating and paid at the rate for 100 percent disability.

This section would provide for a period of trial work to assist these veterans in regaining the ability to retain a job. During the 12 month period of trial work, the veteran's unemployability rating would be retained regardless of his earnings.

(by fiscal years, in millions of dollars)

| | 1985 | 1986 | 1987 | 1988 | 1989 |
|---|---|---|---|---|---|
| Readjustment Benefits | | | | | |
| Budget Authority | * | 0.4 | 0.6 | 0.2 | * |
| Outlays | * | 0.4 | 0.6 | 0.2 | * |
| Compensation | | | | | |
| Budget Authority | 0.0 | 0.0 | 0.0 | 0.0 | -0.9 |
| Outlays | 0.0 | 0.0 | 0.0 | 0.0 | -0.9 |
| General Operating Expenses | | | | | |
| Budget Authority | * | 0.9 | * | * | * |
| Outlays | * | 0.9 | * | * | * |
| Net Budgetary Impact | | | | | |
| Budget Authority | * | 1.3 | 0.6 | 0.3 | -0.9 |
| Outlays | * | 1.3 | 0.6 | 0.3 | -0.9 |

Although this provision is intended to reduce the number of veterans with unemployability ratings and thus lower benefit costs, it is estimated to result in a net cost to the government in the first five years for several reasons. First, the Administrator would be required to notify all 85,600 veterans with current unemployability ratings and all recipients of new unemployability awards of their eligibility for vocational rehabilitation and counseling benefits under chapter 31 (title 38, U.S.C.) and of the provisions of the trial work program. According to the VA, such notifications would cost approximately $21,000 in 1985. Second, although these veterans are eligible for chapter 31 benefits under current law, the notification of this eligibility and the establishment of the trial work period would induce some veterans to utilize the benefits who would not otherwise do so.

Third, the program offers little incentive for these veterans to seek employment. With the rate increase in sections 101-107, these veterans would be receiving at least $15,768 a year -- tax free — in disability compensation benefits. With dependents' and other benefits, this amount could approach $20,000 a year. The largest group of veterans with unemployability ratings (more than 40 percent of the total) have schedular ratings of only 60 percent disability. These veterans would lose more than half of their compensation benefits if they lost their unemployability status. If these veterans could qualify for the substantial level of employment that would be required to replace the lost compensation benefits, they would probably do so without the trial work period.

Finally, it is estimated that nearly 58 percent of these veterans are over age 55 and, therefore, unlikely to find employment as much because of their age as because of their disability.

Thus, it is estimated that 3600 veterans would receive employment counseling under this provision, but only about 550 of those would complete chapter 31 training programs and only around 200 would ultimately obtain permanent employment as a result of this provision. This estimate reflects the following assumptions concerning veterans with unemployability ratings, which are based on information from the VA Vocational Rehabilitation and Counseling Service:

- No veterans over the age of 55 would participate in the program.
- Of those under age 55, only 10 percent would request counseling.
- Of those counseled, 30 percent would be determined capable of benefiting from training.
- Of those entering training, 50 percent would complete their training.
- Of those completing training, 75 percent would find jobs and would lose their unemployability rating at the end of the trial work period.
- The length of a typical training program would be 24 months.
- The annual average training cost would be equal to anticipated average training cost for all chapter 31 trainees.

The average savings from the elimination of an unemployability award to a veteran was estimated by calculating a weighted average benefit under the schedular rating for all current unemployability cases and computing the difference between this amount and the payment for 100 percent disability. The weighted average benefit reduction under the rates in sections 101-107 is estimated to be $8690 per year.

Sections 201-204: This section would increase by 10 percent the rates of subsistence allowance and educational assistance paid to (1) veterans and servicemembers training under the Vietnam Era GI Bill, (2) veterans with service-connected disabilities receiving rehabilitation and training, and (3) those dependents and survivors of veterans receiving educational assistance.

(by fiscal years, in millions of dollars)

| | 1985 | 1986 | 1987 | 1988 | 1989 |
|---|---|---|---|---|---|
| Budget Authority | 160.0 | 209.0 | 167.0 | 135.0 | 111.0 |
| Outlays | 153.0 | 207.0 | 169.0 | 136.0 | 112.0 |

The rate increase, which would be effective October 1, 1984, would increase both the number of individuals choosing to train and the allowance that they would receive. Based on past experience with rate increases in these programs, participation would be expected to rise by 13,000 in 1985 and by 44,000 in 1986, the first full school year in which eligible individuals would have a chance to take advantage of the higher rates. By 1989 the number of additional trainees is estimated to decline to 21,000. This drop is projected because anticipated inflation over time will erode the real value of the increase in the rates.

Section 210: This section would extend the time available for the use of GI Bill benefits for certain veterans who have suffered from drug and alcohol abuse conditions.

It is estimated that the number of veterans who would be affected by this section would be too small for the provision to result in a significant cost.

Section 401: This section would establish a trial work period for pension veterans similar to that established for compensation recipients by section 110. While all pension veterans would be eligible to participate in the trial work program, the primary benefit to participants would be that they could retain their pension-related eligibility for VA health care for one year should their pension benefits be terminated for excess income. Participants would also retain their permanent and total disability status throughout the three-year trial work period. Any income earned during the trial work period, however, would be counted as income for pension purposes, as under current law.

This provision offers considerably less incentive to pension veterans to seek employment than is offered to unemployable compensation veterans by section 110. No counseling or training assistance would be provided by this amendment, and no change would be made to the reduction in pension payments for earnings. It is, therefore expected that this provision would have a negligible effect on the number of pension veterans who will become reemployed and subsequently leave the pension rolls. Thus, the budgetary impact should not be significant.

Section 402: This section would require the Administrator to prepare a statistical report on the disability status of veterans awarded pension benefits by virtue of being 65 years of age or older.

In order to prepare this report, the Administrator would be required to conduct a medical examination of each such veteran who is awarded pension benefits during the two-year period following enactment.

(by fiscal years, in millions of dollars)

| | 1985 | 1986 | 1987 | 1988 | 1989 |
|---|---|---|---|---|---|
| Budget Authority | 1.5 | 1.6 | 0.0 | 0.0 | 0.0 |
| Outlays | 1.2 | 1.6 | 0.3 | 0.0 | 0.0 |

Based on the historical trend, it is estimated that the VA would be required by this provision to conduct more than 34,000 medical examinations in the course of the study to determine the disability status of all new veteran pension recipients whose benefits are awarded because the veteran is 65 years of age or older. According to the VA, the average cost in 1983 of a staff outpatient visit was $77 and of a fee-basis visit was $75. Weighted for the frequency with which compensation and pension rating exams are performed on a staff or fee basis and increased for anticipated inflation, an average cost of $88 in 1986 and $95 in 1987 was calculated for these exams. The number of exams was estimated according to the historical experience for the number of new pension awards in which the veteran is 65 years of age or older.

Section 501: This section would increase the ceilings on grants for specially adapted housing for disabled veterans. The maximum grant for acquisition, construction, or remodeling a house would be increased from $32,500 to $35,750. The maximum grant for adaptations only would rise from $5,000 to $5,500. The increase would be effective on July 1, 1985.

(by fiscal years, in millions of dollars)

| | 1985 | 1986 | 1987 | 1988 | 1989 |
|---|---|---|---|---|---|
| Budget Authority | 0.9 | 2.7 | 1.9 | 1.4 | 1.0 |
| Outlays | 0.9 | 2.7 | 1.9 | 1.4 | 1.0 |

The number of full and adaptation-only grants under the specially adapted housing program is projected to decline under current law from a total of 566 in 1983 to about 380 in 1989. While the higher grant level provided by this section would be expected to induce some new applicants for grants, this increase should be short lived if the response is similar to that following previous grant hikes. Thus, the cost of the bill is estimated to decline rapidly from $2.7 million in 1986, the first full year of enactment, to $1.0 million by 1989.

Section 502: This section would increase from $4,400 to $4,840 the maximum grant available to certain disabled veterans for the purchase of an automobile for adaptation. The increase would be effective on July 1, 1985.

| | (by fiscal years, in millions of dollars) | | | | |
|---|---|---|---|---|---|
| | 1985 | 1986 | 1987 | 1988 | 1989 |
| Budget Authority | * | 0.5 | 0.4 | 0.3 | 0.3 |
| Outlays | * | 0.5 | 0.4 | 0.3 | 0.3 |

The number of auto grants has been declining for several years. The estimate above assumes that this provision would temporarily decrease the rate of decline, since that has been the experience with past hikes in the grant ceiling. Therefore, while all grants awarded would be higher under this provision, an increase in the number of grants would also be expected to result.

Section 601: This section would expand the definition of the Vietnam Era to include service in the Republic of South Vietnam between February 21, 1961 and August 4, 1964.

Certain veterans benefits, such as non-service-connected pensions and burial plot allowances, are restricted to veterans with service during a period of war. Psychological readjustment counseling is further limited to veterans with Vietnam Era service. Thus, by expanding the chronological definition of the Vietnam Era, this provision would grant entitlement for such benefits to veterans who served in Vietnam during this period but who have no other qualifying wartime service.

According to the VA and the Department of Defense, the number of veterans who would be affected by this provision cannot be precisely determined. The VA has estimated that between 15,000 and 20,000 persons served in Vietnam during this period, but the majority of these individuals are likely to have additional qualifying service either during the Korean Conflict or after August 4, 1964. It is, therefore, expected that less than 10,000 veterans would be affected by this provision. With this relatively low number of new eligibles, the cost attributable to this section should not be significant in any single year during the 1985 - 1989 projection period.

Section 602: This section would provide that certain income paid to veterans as participants in therapeutic or rehabilitative work programs should not be counted as income for the purposes of VA pensions. The section further provides for a one-time payment to affected veterans equal to the amount of pension for which they would have been eligible had this section become effective on January 1, 1984. The provision would cease to have effect on December 31, 1987.

| | (by fiscal years, in millions of dollars) | | | | |
|---|---|---|---|---|---|
| | 1985 | 1986 | 1987 | 1988 | 1989 |
| Budget Authority | 1.8 | 1.3 | 1.3 | 0.4 | 0.0 |
| Outlays | 1.8 | 1.3 | 1.3 | 0.4 | 0.0 |

Data is not available on which to determine the number of veterans who are participating in VA-sponsored work-rehabilitation programs and who are also receiving pensions. It was assumed, therefore, that one-half of the obligations of the Special Therapeutic and Rehabilitative Activities Fund have, prior to January 1984, been paid to veterans also receiving pensions. Since the non-VA income of pensioners offsets their pension payments dollar for dollar, the increase in pension costs under this provision would be equal to the total amount of income excluded from consideration.

6. ESTIMATED COST TO STATE AND LOCAL GOVERNMENTS: None

7. ESTIMATE COMPARISON: None

8. PREVIOUS CBO ESTIMATE:

On August 23, 1984, CBO submitted a cost estimate of S.2736 to the Senate Committee on Veterans' Affairs. That estimate reflected those provisions of the bill as we understood them to have been ordered reported by the Committee. Some of those provisions have subsequently been altered and new provisions added to arrive at the version of S.2736 that is reflected in this estimate.

9. ESTIMATE PREPARED BY: K. W. Shepherd (226-2820)

10. ESTIMATE APPROVED BY:

C.G. Nuckols

fa James L. Blum
Assistant Director
for Budget Analysis

## REGULATORY IMPACT STATEMENT

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee on Veterans' Affairs has made an evaluation of the regulatory impact which would be incurred in carrying out the Committee bill. The results of that evaluation are described below.

The Committee bill has six titles: I—Disability compensation and dependency and indemnity compensation; II—Veterans' Administration rehabilitation and education programs; III—Veterans' employment programs; IV—Veterans' Administration non-service-connected disability pension; V—Other benefit rate increases; VI—Miscellaneous provisions.

A. *Estimates of the numbers of individuals and businesses who would be regulated, and a determination of the groups and classes of such individuals and businesses:*

*Title I.*—Title I, which provides for rate increases in the service-connected disability compensation and dependency and indemnity compensation programs and which establishes a new trial work period pilot program for certain veterans with total disability ratings by reason of unemployability, would not result in the regulation of any individuals or businesses, with the exception of the provisions of section 110, that would regulate veterans receiving individual unemployability ratings who would be required to apply for a vocational rehabilitation evaluation and pursue a vocational rehabilitation program if prescribed. It is not possible to estimate with any accuracy the number of individuals that would be affected.

*Title II.*—Title II, which provides for rate increases, improvements, and modifications in programs of educational assistance and vocational rehabilitation for veterans and eligible persons, would not result in the regulation of any individuals or businesses.

*Title III.*—Title III, which improves and modifies veterans' employment programs, would not result in the regulation of any individuals or businesses.

*Title IV.*—Title IV, which provides for a new trial work period for certain permanently and totally disabled pension recipients, would regulate all pension recipients who voluntarily participate in the trial work period pilot project under section 401, as well as all new pension recipients affected by section 402, who would be required to undergo a medical examination. It is not possible to estimate with any accuracy the number of individuals that would be affected.

*Title V.*—Title V, which increases the maximum allowances for specially-adapted housing grants and automobile assistance for certain severely disabled, service-connected veterans, would not result in the regulation of any individuals or businesses.

*Title VI.*—Title VI, which makes a series of miscellaneous improvements in a variety of veterans' benefits, would not result in the regulation of any significant number of individuals or businesses.

B. *Determination of the economic impact of such regulations on individuals, consumers, and businesses affected:* The Committee does not anticipate that there will be any significant economic impact on individuals, consumers, or businesses as a result of the regulations under the provisions of the Committee bill.

C. *Determination of the impact on the personal privacy of the individuals affected:* The enactment of the Committee bill would not increase the impact on the personal privacy of any individuals, except: (1) those veterans who voluntarily apply for a total disability rating due to unemployability would be required, by the amendments proposed in section 110 of the Committee bill, to apply for an evaluation under chapter 31 of title 38; (2) those who apply under the amendment proposed in section 210 of the Committee bill for extensions of the eligibility period for educational assistance and vocational rehabilitation, on the grounds of an alcohol or drug condition that prevented them from pursuing training, would be required to provide information regarding such conditions and their treatment or rehabilitation for those conditions; and (3) those who apply under section 402 of the Committee bill for pension, who are considered permanently and totally disabled by reason of being age 65 or older or by becoming unemployable after age 65, would be required to undergo a medical examination to determine the actual schedular disability rating that would be applicable to them.

D. *Determination of the amount of additional paperwork that will result from regulations to be promulgated under the bill:* None of the provisions of the Committee bill would entail regulations that would impose significant new paperwork requirements on individuals or businesses.

## SECTION-BY-SECTION ANALYSIS OF S. 2736 AS REPORTED

### *Section 1*

*Subsection (a) of section 1* would provide that this Act may be cited as the "Veterans' Administration Benefit Rate Increase and Program Improvement Act of 1984".

*Subsection (b) of section 1* would provide that, except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, of repeal of, a section of other provision, the reference shall be considered to be made to a section of other provision of title 38, United States Code.

## TITLE I—DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION

### *Part A—Rate Increases*

Would provide increases, effective December 1, 1984, in the rates of disability compensation paid to service-connected disabled veterans and in the rates of dependency and indemnity compensation paid to the spouses and children of those who died as a result of service-connected disability. In the computation of these increases, all amounts of $.50 or more were rounded to the next higher dollar and amounts less than $.50 were rounded to the next lower dollar.

### *Section 101*

Would amend present section 314 of title 38, relating to the rates of service-connected disability compensation.

*Subsection (a) of section 101* would amend subsections (a) through (j) of present section 314 to increase by 4.7 percent the basic monthly rates of compensation paid to veterans with disabilities rated from 10 to 100 percent. Currently, a veteran with a 10-percent disability receives $64 monthly, and a veteran with a disability rated as total—100 percent—receives $1,255 monthly. These rates would be increased to $67 and $1,314, respectively, by the Committee bill, and the rates for disabilities rated 20 to 90 percent would be increased by the same percentage.

The Committee bill would also increase by 4.7 percent:

The higher monthly rates of compensation authorized under subsections (l) through (o) and (s) of section 314 for veterans with certain combinations of severe disabilities;

The maximum amount payable monthly to a veteran under subsection (p), which authorizes the Administrator to pay the next higher rate or intermediate rate to a veteran whose disabilities exceed the requirements for any of the rates prescribed in section 314, or who is both blind and deaf;

The rates payable monthly under subsection (r) to veterans who are in need of aid and attendance;

The rate payable under subsection (s) to veterans who are house-bound;

The additional amount payable under subsection (t) to certain veterans who have suffered the service-connected loss or loss of use of an extremity and the non-service-connected loss or loss of use of the other paired extremity; and

The limitations on the total amount payable monthly to a veteran entitled to compensation under subsection (k) who is also entitled to compensation under another subsection of present section 314.

*Subsection (b) of section 101* would authorize the Administrator of Veterans' Affairs to increase by 4.7 percent the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85–857 who do not receive compensation under chapter 11 of title 38. Public Law 85–857 generally codified in title 38 of the United States Code the laws relating to veterans' benefits; section 10 of that law provides that any individual who was receiving benefits as a veteran on December 31, 1958, under public laws administered by the VA but not so codified, is to continue to receive benefits at the rates payable under such public laws or under corresponding provisions of title 38, whichever is the greater, as long as he or she remains eligible.

### *Section 102*

Would amend present section 315 of title 38, relating to additional compensation payable monthly to veterans with service-connected disabilities rated as 30 percent or more disabling who have spouses, children, or dependent parents, to increase those allowances by 4.7 percent.

*Clauses (1) through (6) of section 102* would amend paragraph (1) of present section 315, relating to additional compensation—"dependents' allowances"—payable monthly to totally disabled veterans who have dependents, to increase those allowances by 4.7 percent. Under current law, for a veteran so disabled who has a spouse, the amount of additional compensation paid is $77; if the veteran has one child, the amount paid is $52 and for each additional child, $41. Under the Committee bill, these amounts would be increased to $81, $54, and $43, respectively. The amount of the dependents' allowance payable monthly to a totally disabled veteran who has a dependent parent or parents would be increased from $62 (for each such parent) to $65; to such a veteran who has a severely disabled spouse, from $139 to $146; and to such a veteran who has a child age 18 or older who is pursuing a course of education at an approved educational institution, from $116 to $121.

Under paragraph (2) of present section 315, the additional compensation payable for dependents to veterans rated from 30- to 90-percent disabled is prorated, so that, for example, a veteran rated at 30 percent receives 30 percent of the amount specified in paragraph (1) of that section.

### *Section 103*

Would amend present section 362 of title 38, relating to the clothing allowance payable annually to a veteran receiving compensation whose disability requires the use of a prosthetic or orthopedic applicance or applicances, including a wheelchair, that tends to wear out or tear the veteran's clothing, to increase that allowance by 4.7 percent, from $338 to $354.

### *Section 104*

Would amend present section 411 of title 38, relating to the rates of dependency and indemnity compensation (DIC) for the surviving spouses of veterans whose deaths are service connected.

*Subsection (a) of section 104* would amend subsection (a) of present section 411 to increase by 4.7 percent the DIC benefit payable monthly to the surviving spouse of a veteran who has died as a result of service-connected disability. Under current law, a surviving spouse's DIC is paid according to the pay grade—service rank—of the deceased veteran; the amounts range from $461 per month for the surviving spouse of a veteran who had attained the grade of E-1, to $1,179 for the surviving spouse of a veteran who had attained the grade O-10. Those rates would be increased to $483 and $1,234, respectively; proportionate increases would be provided in the rates for the intermediate pay grades and in the rates payable to the surviving spouses of veterans who had served in the positions specified in footnotes 1 and 2 to the table of grades and rates in existing section 411. The enactment of these increases would automatically result in identical increases in the benefits payable at DIC rates under section 410(b) of title 38 to surviving spouses of certain veterans compensated at the 100-percent rate whose deaths were not service connected. Also, by virtue of section 156(e)(1)(A) of Public Law 97-377 (a fiscal year 1983 continuing appropriations measure enacted on Decmber 21, 1982), the enactment of these DIC increases (or the alternative increases that would be provided under section 108(a) of the Committee bill) would automatically result in 4.7-percent (or alternative) increases, also effective December 1, 1984, in survivors' reinstated benefits paid under section 156 of Public Law 97-377 to certain surviving spouses with minor children.

*Subsection (b) of section 104* would amend subsection (b) of present section 411 to increase by 4.7 percent, from $53 to $55, the dependents' allowance payable for each child under the age of 18 to a surviving spouse receiving DIC.

*Subsection (c) of section 104* would amend subsection (c) of present section 411 to increase by 4.7 percent, from $139 to $146, the additional amount of DIC payable monthly to a surviving spouse who is a patient in a nursing home or who is helpless or blind or so nearly helpless or blind as to be in need of regular aid and attendance.

*Subsection (d) of section 104* would amend subsection (d) of present section 411 to increase by 4.7 percent, from $68 to $71, the DIC payable monthly to a surviving spouse who is so disabled as to be permanently housebound.

### *Section 105*

Would amend present section 413 of title 38, relating to DIC for surviving children of veterans whose deaths were service connected, to provide a 4.7-percent increase in the monthly rates of DIC payable to the veteran's children where no surviving spouse is entitled. The current rates of $233 for one child, $334 for two children, and $432 for three children, plus $87 for each additional child, would be increased to $244, $350, $452, and $91, respectively. Benefits payable at DIC rates under present section 410(b) of title 38 to the surviving children of certain veterans compensated at the 100-percent rate whose deaths were not service connected would also be automatically increased as a result of this increase in section 413.

### *Section 106*

Would amend present section 414 of title 38, relating to supplemental DIC for certain surviving children.

*Clause (1) of section 106* would amend subsection (a) of present section 414 to provide a 4.7-percent increase, from $139 to $146, in the additional allowance payable monthly to a child eligible for DIC who has attained the age of 18 and who became permanetly incapable of self-support before reaching age 18.

*Clause (2) of section 106* would amend subsection (b) of present section 414 to provide a 4.7-percent increase, from $233 to $244, in the DIC payable monthly, concurrently with the payment of DIC to a surviving spouse, to a surviving child who has attained the age of 18 and who became permanently incapable of self-support before reaching age 18.

*Clause (3) of section 106* would amend subsection (c) of present section 414 to provide a 4.7-percent increase, from $118 to $124, in the additional DIC payable monthly, concurrently with the payment of DIC to a surviving spouse, to a surviving child pursuing a course of education approved under present section 104 of title 38.

### *Section 107*

Would provide that, except as provided in section 108 of the Committee bill, the provisions of sections 101 through 106 would become effective on December 1, 1984. The effective date of this fiscal year 1985 increase is consistent with the provisions of section

108 of Public Law 98-223, which express the sense of the Congress that compensation and DIC cost-of-living increases for fiscal year 1985 and subsequent fiscal years are to take effect on December 1 of the year involved. This would align the effective date of the compensation/DIC increases with cost-of-living adjustments in Social Security and VA pension.

### *Section 108*

Would proivide for an alternative increase in the rates and limitations that would be increased by sections 101 through 106 of the Committee bill.

*Paragraph (1) of subsection (a) of section 108* would provide that, if the percentage increase in Social Security benefits that will take effect on December 1, 1984, as a result of a determination under section 215(i) of the Social Security Act, relating to the granting of cost-of-living incrseases in accordance with Consumer Price Index increases, is not 4.7 percent, the provisions of sections 101 through 106 of the Committee bill would not take effect. Instead, the Administrator would be required to compute alternative increased rates and limitations by increasing the rates and limitations in current law by the same percentage as social security benefits are increased as a result of a determination under section 215(i) and, effective December 1, 1984, pay compensation and DIC benefits in accordance with the alternate incrseased rates and limitations.

*Paragraph (2) of subsection (a) of section 108* would require that, in the computation of alternative rate increases pursuant to paragraph (1) of this subsection, amounts of $.50 or more would be rounded to the next higher dollar amount and amounts of less than $.50 would be rounded to the next lower dollar amount.

*Subsection (b) of section 108* would permit the Administrator to adjust administratively, consistent with the increases authorized by subsection (a) of this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who do not receive compensation under chapter 11 of title 38.

*Subsection (c) of section 108* would require that, if the Administrator is required to compute alternative increased rates and limitations pursuant to subsection (a) of this section, such alternative rates be published in the Federal Register at the same time as the materials regarding the increase in social security benefits is required, by section 215(i)(2)(D) of the Social Security Act, to be published.

*Part A—Costs:* Enactment of the provisions of Part A is estimated to cost $392.2 million in budget authority and $354.0 million in outlays in fiscal year 1985.

## *Part B—Compensation Program Amendments*

### *Section 110*

Would establish a 3- to 4-year pilot project of trial work periods for certain veterans with service-connected disability ratings of total disability based on individual determinations of unemployability (hereinafter referred to as "IU ratings")—that is, service-connected disabled veterans whose "schedular ratings" are less than

100 percent disabled but are nevertheless determined (under section 4.16 of title 38, Code of Federal Regulations) to render them unable to secure or follow substantially gainful occupations and, as a result, are rated totally disabled. This section would also require the VA to make various counseling and placement services available to veterans with IU ratings; would require a veteran receiving an IU rating to undergo an evaluation of rehabilitation potential and to cooperate in the pursuit of a VA program of vocational rehabilitation if one is developed for the veteran; and would require the VA to conduct a program of outreach regarding the availability of trial work periods and counseling and placement services to veterans with IU ratings.

*Paragraph (1) of subsection (a) of section 110* would amend subchapter VI of chapter 11 of title 38, relating to various aspects of the service-connected disability compensation program, to add two new sections—section 363, entitled "Trial period of work for certain veterans with total disability ratings", and section 364, entitled "Vocational rehabilitation for certain veterans with total disability rates"—as follows:

*Subsection (a) of new section 363:* Would provide that, subject to subsections (c) and (f) of this new section (described below) and for purposes of determining whether a veteran with an IU rating has regained the ability to secure or follow a substantially gainful occupation, activity performed by the veteran for remuneration or gain during a period of trial work—a 12-month period under subsection (e)(1) of this new section (described below)—shall be deemed not to have been performed by the veteran during that period. This provision is based on the trial work period concept under the Social Security Act (SSA) for disability insurance beneficiaries (section 222 (c)).

*Subsection (b) of new section 363:* Would provide that, during the 12-month period following a veteran's completion of a period of trial work pursuant to subsection (a) of this new section, if the veteran's compensation has been reduced and his or her earned income falls below $300 in any month, the veteran's IU rating shall be restored effective as the first day of that month and the Administrator shall review the case and determine whether an IU rating is warranted. (This $300 level derives from the SSDI regulations (sections 404.1571–74 of title 42, CFR), under which earnings of $300 or more per month are ordinarily considered as showing that the individual has performed gainful activity and is, therefore, not considered disabled for SSDI purposes.) In the event that, upon completing that review, the Administrator determines that the veteran is no longer unemployable, the effective date of the resulting reduction would be fixed in accordance with the facts found. Section 3012(b)(6) of title 38, which generally provides for a delay—until more than 60 days after notice of the reduction is provided—in the effective date of a compensation reduction based on a change in unemployability status would be made inapplicable. (Thus, in the event of withdrawal of the IU rating, the reduction would be retroactive to the date that the rating had been restored if it was found that, despite the drop in earned income, employability had not been lost. It it was determined that employability had been lost at the time the veteran's earned income dropped below $300 and was subsequently regained, the reduction would take effect as of the date employability was regained.)

*Paragraph (1) of subsection (c) of new section 363:* Would provide that in order for a period of trial work to apply in an individual case a veteran must, not later than the thirtieth day after beginning work, notify the VA in writing that he or she desires or intends to work or has begun to work and that he or she desires to participate in a period of trial work.

*Paragraph (2) of subsection (d) of new section 363:* Would provide that a veteran may *not* participate in more than one period of trial work under this new section.

*Subsection (d) of new section 363:* Would require the Administrator to make available to each veteran with an IU rating, whether or not the veteran is participating in a vocational rehabilitation program under chapter 31 of title 38, certain kinds of counseling and other services described in paragraphs (2) and (5) of present section 1504(a) of title 38, relating to the scope of services and assistance available under that chapter. These services include educational, vocational, psychological, employment, and personal adjustment counseling, job-placement services and postplacement services to help insure a satisfactory adjustment in employment.

Upon receiving notice (under subsection (c)(1) of this new section) from a veteran with an IU rating that the veteran desires to participate in a trial-work period, the Administrator would be required to provide the veteran with notice of the availability to such veterans of these counseling and employment services. This notice requirement would be in addition to the broader notice required by subsection (b) of this section of the Committee bill to be provided to all veterans with IU ratings and would contain some of the same information. Nevertheless, since in most cases of veterans having IU ratings on the date of enactment a substantial period of time would expire betwen the time of the subsection (b) notice and the veteran's beginning to work, providing the veteran, at or near the onset of his or her trial work period, with information regarding the veteran's eligibility for counseling and employment services in connection with the trial work period could be very useful to those who might not previously have focused on their eligibility for these services when they were first notified of it or who might have forgotten about it.

*Subsection (e) of the new section 363:* Would provide two definitions for purposes of this new section: First, "period of trial work" would mean the 12-month period following the date on which a veteran with an IU rating begins to perform work (or work-like activity, as determined under subsection (a) of this new section) in connection with which the veteran provides notice (under subsection (c) of this new section) of the veteran's desire to participate in a trial work period; and, second, "unemployable veteran" would mean a veteran (other than a veteran whose IU rating has been in effect for 20 or more years and, under section 110 of title 38, may not, therefore, be reduced) who meets the IU rating requirements, that is, a veteran who has a service-connected disability, or service-connected disabilities, not rated as total, but who is unable, as a result of such disability or disabilities, to secure or follow a substantially gainful occupation.

*Paragraph (1) of subsection (f) of new section 373:* Would provide that this new section shall take effect on the first day of the fifth full month following the date of enactment. Thus, for example, if the Committee bill were enacted on September 25, 1984, this new section would take effort on February 1, 1985.

*Paragraph (2) of subsection (f) of new section 363:* Would provide that no period of trial work under this section shall be available to a veteran unless the veteran has provided the notice required by subsection (c)(1) of this new section and has performed at least 1 month's work or work-like activity prior to the 37th month following the month this new section takes effect (or the 49th month following the effective date month, if the Administrator determines that it is in the best interests of veterans and the United States to extend the pilot program for a year). The Administrator would be required promptly to notify the Congressional Committees on Veterans' Affairs of any extension of the trial work period pilot program.

*Paragraph (1) of subsection (a) of new section 364:* Would require the VA, in the case of each veteran who receives an IU rating on or after the first day of the fifth full month following the enactment date of this new section, to give the veteran, at the time that notice of the award is given, notice of the requirements of paragraph (2) of this subsection of this new section.

*Paragraph (2) of subsection (a) of new section 364:* Would require each veteran with an IU rating who has been provided with notice pursuant to paragraph (1) of this subsection to submit, within 30 days after the notice was mailed to him or her, an application for an evaluation under chapter 31 of title 38. If determined to be eligible for that evaluation, the veteran would be required to cooperate in the conduct of it. Also, if the VA formulates a vocational rehabilitation program for the veteran under chapter 31, the veteran would be required—within the limits of the veteran's existing chapter 31 entitlement and period of eligibility, taking into account, of course, any extensions thereto granted under the appropriate provisions of chapter 31—to pursue that program.

*Paragraph (1) of subsection (b) of new section 364:* Would, if the Administrator determines that a veteran has failed to comply substantially with the requirements of subsection (a) of this new section to cooperate in an evaluation or to pursue a vocational rehabilitation program if one is prescribed, require the VA to provide the veteran with notice of a forthcoming review of the veteran's IU rating. Specifically, the VA would be required in such a case to give the veterans notice that, unless the veteran resumes substantial compliance with these requirements within 60 days after the VA provided the notice (or such longer period as is the shortest period within which it is reasonably feasible for the veteran to resume compliance—for example, because of the need, if applicable, to wait for the start of a new semester or a course), the VA will conduct a review of the determination that the veteran is entitled to an IU rating and the veteran's noncompliance with those requirements will be considered in the review. Unless the veteran has resumed substantial compliance with the requirements to cooperate in an evaluation or to pursue a prescribed vocational rehabilitation program, whichever is applicable, the VA would be required to conduct the IU rating review.

*Paragraph (2) of subsection (b) of new section 364:* Would provide that, if the review conducted pursuant to subsection (b)(1) of this new section results in a determination that the veteran is no longer entitled to the IU rating, nothing in this subsection of new section 364 would preclude a subsequent award of a total disability rating—by reason of an IU determination or otherwise—to the veteran. Thus, this paragraph would clarify that the loss of the IU rating would not necessarily be permanent and that, as in any other case, any total disability rating warranted by the facts should be granted.

*Subsection (c) of new section 364:* Would provide that, for purpose of this new section the term "unemployable veteran" has the same meaning provided in proposed new section 363(e)(2) (described above).

*Paragraph (2) of subsection (a) of section 110* would amend the table of sections at the beginning of chapter 11 of title 38 to reflect the additions of new sections 363 and 364.

*Paragraph (1) of subsection (b) of section 110* would require the Administrator of Veterans' Affairs, beginning not later than 90 days after the date of enactment, to provide each veteran who has an IU rating (other than those whose ratings are made permanent after 20 years by virtue of the first sentence of section 110 of title 38) with (1) information explaining the provisions of new section 363 of title 38, as proposed to be added by subsection (a)(1) of this section of the Committee bill, (2) a description of the procedure for participating in a period of trail work pursuant to new section 363, (3) information regarding the availability of vocational rehabilitation under chapter 31 of title 38, and (4) a summary description of the scope of services and assistance available under chapter 31.

*Paragraph (2) of subsection (b) of section 110:* Would, in the case of a veteran who receives an IU rating after the fourth full month following the enactment date—and is, therefore, required by new section 364(a)(1) (as proposed to be added by subsection (a)(1) of this section) to be provided with notice of his or her obligation to cooperate in a rehabilitation evaluation and pursue a chapter 31 rehabilitation program, if prescribed—require that the notice required by paragraph (1) of this subsection be provided together with the notice required under new section 364(b)(1).

*Subsection (c) of section 110* would require the Administrator, not later than 39 months after new section 363 (establishing the trial-work period pilot program) takes effect, to report to the Veterans' Affairs Committees on the results of the first 3 years' experience. The Administrator would be required to include in the report the Administrator's assessments of the value (including the cost-effectiveness) and effect of the program and the Administrator's recommendations for administrative and legislative action.

*Part B—Costs:* Enactment of the provisions of Part B is estimated to result in no additional costs in fiscal year 1985.

## TITLE II—VETERANS' ADMINISTRATION REHABILITATION AND EDUCATION PROGRAMS

### *Part A—Rate Increases*

Would provide for a 10-percent increase, effective October 1, 1984, in the rates of rehabilitation subsistence allowances under chapter 31 of title 38, United States Code, and in the rates of educational assistance under chapters 34, 35, and 36.

### *Section 201*

Would amend present section 1508(b) of title 38, relating to rates of subsistence allowances for service-connected disabled veterans participating in rehabilitation programs under chapter 31 of title 38, to increase by 10 percent, effective October 1, 1984, the rates of such allowances. For example, the $411 monthly subsistence allowance paid to a veteran who has a spouse and one child and is pursuing a full-time program of institutional training would be increased to $452.

### *Section 202*

Would amend chapter 34 of title 38, relating to veterans' educational assistance, to increase by 10 percent the rates of educational assistance, effective October 1, 1984.

*Clause (1) of section 202* would amend present section 1682(a)(1), relating to the computation of educational assistance allowances generally, to increase by 10 percent the rates of such allowances. For example, the $464 monthly educational assistance allowance currently paid to a veteran who has a spouse and one child and is pursuing a full-time program of institutional training would be increased to $510. (Under present section 1732, the rates in section 1682 for institutional, farm cooperative, and independent study training for a veteran without dependents apply to survivors' and dependents' educational assistance under chapter 35. Thus, the rate increases provided for in this clause and clauses (2) and (3) of this section of the Committee bill would apply to assistance for such training under chapter 35. Also, by virtue of section 156(a)(1)(B) of Public Law 97-377 (a fiscal year 1983 continuing appropriations measure enacted on December 21, 1982), the enactment of increases in chapter 35 benefits would automatically result in 10-percent increases, effective October 1, 1984, in survivors' reinstated benefits paid under section 156 of Public Law 97-377 to certain children who are the surviving dependents of certain veterans and who are enrolled in postsecondary training.)

*Clause (2) of section 202* would amend present section 1682(b), relating to the computation of the educational assistance allowance for pursuit of a program of education while on active duty or on less than a half-time basis, to increase by 10 percent, from $342 to $376 for a full-time course, the maximum amount of monthly assistance.

*Clause (3) of section 202* would amend present section 1682(c)(2), relating to the computation of educational assistance allowances for pursuit of a farm cooperative program, to increase by 10 percent the rates of such allowances. For example, the $367 monthly educational assistance allowance currently paid to a veteran who has a spouse and one child and is pursuing a farm cooperative program on a full-time basis would be increased to $404.

*Clause (4) of section 202* would amend present section 1692(b), relating to individualized tutorial assistance, to increase by 10 percent the maximum monthly amount and total maximum amount payable to an eligible veteran for tutorial assistance, that is, from $76 to $84 monthly and from $911 to $1,008 total.

### *Section 203*

Would amend chapter 35 of title 38, relating to survivors' and dependents' educational assistance, to increase by 10 percent the rates of educational assistance, effective October 1, 1984.

*Clause (1) of section 203* would amend present section 1732(b), relating to the computation of the educational assistance allowances paid for pursuit of certain full-time programs of education consisting of institutional courses and alternate phases of training in a business or industrial establishment, to increase the rate by 10 percent, from $276 to $304.

*Clause (2) of section 203* would amend present section 1742(a), relating to the training allowance for special restorative training, to increase by 10 percent the rates of allowances payable and entitlement charged for pursuit of a course of such training.

### *Section 204*

Would amend chapter 36 of title 38, relating to administration of educational benefits and training allowances, to increase by 10 percent, effective October 1, 1984, reporting fees paid to educational institutions and training allowances paid for pursuit of apprenticeship or other on-job training programs.

*Clause (1) of section 204* would amend present section 1784(c), relating to reporting fees paid to educational institutions to defray the costs to them of reports and certifications required by the VA, to increase the amounts of such fees by 10 percent. Currently, these fees are computed at the rate of $7 annually for each eligible veterans or eligible person enrolled at an educational institution under chapter 34 or 35 or, in the case of an enrollee receiving advance payment of educational assistance allowances, at the rate of $11 annually. The Committee bill would increase these rates to $9 and $13, respectively.

*Clause (2) of section 204* would amend present section 1786(a)(2), relating to the computation of educational assistance allowance for the pursuit of training by correspondence, to increase by 10 percent, from $342 to $376, the educational assistance allowance amount based on which 1-month's entitlement to educational assistance is charged.

*Clause (3) of section 204* would amend present section 1787(b)(1), relating to the computation of training assistance allowances payable to veterans and other eligible persons for apprenticeship or other on-job training, to increase by 10 percent the rates of training assistance allowances for pursuit of such training. For example, the $279 monthly training assistance allowance currently paid during the first 6 months of such training to an individual with one dependent would be increased to $307.

*Clause (4) of section 204* would amend present section 1798(b)(3), relating to the maximum aggregate amount of VA educational loans that may be made to any veteran or other person, to increase the maximum aggregate amount within the existing overall limit to $2,500 by 10 percent.

### *Section 205*

Would provide that the provisions of this part of the Committee bill would become effective on October 1, 1984.

*Part A—Costs:* Enactment of the provisions of Part A is estimated to cost $160.0 million in budget authority and $153.0 million in outlays in fiscal year 1985.

### *Part B—Rehabilitation and Education Program Improvements*

Would amend various provisions of chapters 31, 34, 35, and 36 of title 38, United States Code, to make improvements and adjustments in Veterans' Administration rehabilitation and education programs.

### *Section 210*

Would provide for the tolling (extension) of the periods of eligibility for GI Bill educational assistance and for a VA program of vocational rehabilitation where an alcohol or drug dependence or abuse condition has prevented the individual from pursuing training.

*Subsection (a) of section 210* would amend present section 1503(b), relating to the tolling of the 12-year period of eligibility (the first 12 years following discharge) generally available to an eligible service-connected disabled veteran for vocational rehabilitation, to redesignate existing paragraph (1) as subparagraph (A) of paragraph (1) and to add a new subparagraph (B) as follows:

*Clause (i) of new subparagraph (B) of subsection (b)(1) of section 1503:* Would provide that, in the case of a veteran with qualifying service (as described in clasue (iii) of the new subparagraph), the veteran's 12-year period of eligibility for chapter 31 vocational rehabilitation training would not run during the period of time during which the Administrator determines, subject to the limitations in clauses (iv) and (v) of this new subparagraph, that the veteran was unable to participate in such training as a result of a condition described in clause (ii) of this new subparagraph.

*Clause (ii) of new subparagraph (B) of subsection (b)(1) of section 1503:* Would provide that the condition referred to in clause (i) of this new subparagraph, on the basis of which the 12-year period of eligibility may be stopped from running, is an alcohol or drug dependence or abuse condition in a case in which the Administrator determines, under regulations that the Administrator must prescribe, that (1) the veteran either has received recognized treatment or has participated in a program of rehabilitation for the condition, and (2) the condition is sufficiently under control so as to enable the veteran to participate in a vocational rehabilitation program.

*Clause (iii) of new subparagraph (B) of subsection (b)(1) of section 1503:* Would require that, in order to the eligible under clause (i) of this new subparagraph for a tolling of the 12-year period of eligibility, the veteran must have been released or discharged from active duty service under conditions other than dishonorable. If the veteran received other than an honorable discharge, the Administrator would be required to make a determination, on the basis of an individualized review of the veteran's service record, whether the veterans was discharged under conditions other than dishonorable.

Under current VA regulations (section 312(a) of title 38, Code of Federal Regulations), general discharges (which the armed services characterize as discharges under honorable conditions) are automatically accepted by the VA as being discharges under conditions other than dishonorable and, thus, as qualifying discharges for purposes of benefits under title 38. This provision of the Committee bill would not allow general discharges to be considered as automatically qualifying for purposes of eligibility for a delimiting date extension under this new subparagraph.

*Clause (iv) of new subparagraph (B) of subsection (b)(1) of section 1503:* Would require that a veteran, in order to be eligible under clause (i) of this new subparagraph for a tolling of the 12-year period of eligibility, make application therefor within 1 year after whichever is the latest of (1) the date on which the otherwise applicable eligibility expired, or (2) the termination of the last period of treatment or rehabilitation for the veteran's alcohol or drug condition, or (3) the date on which final regulations implementing the provisions of this new subparagraph are published.

*Clause (v) of new subparagraph (B) of subsection (b)(1) of section 1503:* Would limit the maximum period of time for which the 12-year period of eligibility may be tolled to the length of the period during which the veteran received treatment or participated in a program of rehabilitation for the condition plus the length of any period that the veteran demonstrates, to the Administrator's satisfaction, that the veteran was prevented from participating in a program of vocational rehabilitation. However, in no case could such an extension exceed 4 years.

*Clause (iv) of new subparagraph (B) of subsection (b)(1) of section 1503:* Would provide that when a period of eligibility is tolled under clause (i) of this new subparagraph, it will again begin to run on the first day—following the alcohol or drug condition becoming sufficiently under control for the veteran to participate in a program of vocational rehabilitation—on which it is reasonably feasible, as determined by regulations to be prescribed by the Administrator, for the veteran to participate in such a program.

*Subsection (b) of section 210* would amend present section 1662(a), relating to the period of eligibility for chapter 34 (GI Bill) educational assistance—the so-called "delimiting period"—and the extensions of such periods, to provide for the tolling of the period of eligibility in certain cases in which a veteran's alcohol or drug dependence or abuse condition has prevented the veteran from pursuing his or her chosen program of education.

*Subclause (A) of Clause (1) of subsection (b) of section 210* would amend present section 1662(a)(1), which provides for the tolling of the delimiting period where the veteran was prevented by a physical or mental disability from pursuing his or her chosen program of education, to provide for tolling the delimiting period, under the conditions described in new paragraph (4) of section 1662(a), as proposed to be added by clause (2) of this subsection of this section of the Committee bill, where a veteran has been prevented from pursuing such a program of education because of a condition described in that proposed new paragraph.

*Subclauses (B) and (C) of clause (1) of subsection (b) of section 210* would further amend present section 1662(a)(1) so as to limit the provisions relating to the length of the delimiting period extension granted for "disabilities" (not including alcohol and drug conditions) to limit the applicability of those provisions to disability cases. The length of extensions for cases involving alcohol or drug conditions would be governed by proposed new paragraph (4)(C) of section 1662(a), as proposed to be added by clause (2) of this subsection of the Committee bill.

*Clause (2) of subsection (b) of section 210* would further amend section 1662(a) to add a new paragraph (4), as follows:

*Subparagraph (A) of new paragraph (4) of section 1662(a):* Would provide that the condition referred to in section 1662(a)(1), as proposed to be amended by paragraph (1) of this subsection, on the basis of which condition the delimiting period may be tolled, is an alcohol or drug dependence or abuse condition of a veteran in a case in which the Administrator finds that (1) the veteran either received recognized treatment or participated in a program of rehabilitation for the condition, and (2) the condition is sufficiently under control so as to enable the veteran to participate in his or her chosen program of education.

*Subparagraph (B) of new paragraph (4) of section 1662(a):* Would require that, in order to be eligible under this new paragraph for a tolling of the delimiting period on the basis of an alcohol or drug dependence or abuse condition, the veteran must have been released or discharged from active duty service under conditions other than dishonorable. If the veteran received other than an honorable discharge, the Administrator would be required to make a determination, on the basis of an individualized review of the veteran's service record, whether the veteran was discharged under conditions other than dishonorable.

*Subparagraph (C) of new paragraph (4) of section 1662(a):* Would provide that application for the tolling of the delimiting period in these cases would be required to be made within 1 year after the latest of (1) the expiration of the otherwise applicable delimiting period, (2) the termination of the last period of treatment or rehabilitation for the alcohol or drug condition, or (3) the date on which final regulations to implement the provision are published. The length of the period of tolling would be limited to the length of time the veteran received treatment or participated in rehabilitation for the condition plus the period of time during which the veteran demonstrates to the satisfaction of the Administrator that the condition prevented pursuit of a program of education. However, in no case could such an extension exceed 4 years. When the delimiting period has been tolled, it would again begin running on the first day—following the alcohol or drug condition becoming sufficiently under control for the veteran to pursue his or her chosen program of education—on which it is reasonably feasible, as determined pursuant to regulations to be prescribed, for the veteran to begin or resume pursuit of a program of education with GI Bill educational assistance.

*Subsection (c) of section 210* would amend present section 1712(b), relating to periods of eligibility of the survivors and dependents of certain service-connected disabled veterans for chapter 35 educational assistance and the extension of such periods on account of disabilities, to provide for delimiting period extensions where an alcohol or drug dependence or abuse condition of an eligible spouse or surviving spouse has prevented the spouse or surviving spouse from pursuing his or her chosen program of education. The particulars of the provision are (except that the provision regarding character of discharge is deleted) substantively identical to those described in connection with subsection (b) of this section of the Committee bill with respect to GI Bill delimiting period extensions for veterans.

### *Section 211*

Would repeal subsection (d) of present section 1796 of title 38, which requires that the Administrator annually report to the Congress on the nature and disposition of all cases arising under section 1796, which prohibits the Administrator from approving enrollments in courses offered by institutions that use erroneous, deceptive, or misleading advertising, sales, or enrollment practices.

### *Section 212*

Would require the Administrator to consult with and obtain the recommendations of the advisory committee established pursuant to present section 1792 of title 38, United States Code—known as the "Administrator's Advisory Committee on Education"—prior to making any changes in the practices, policies, or regulations pertaining to reports by institutions that are required to be submitted pursuant to section 1784 of such title.

*Part B—Costs:* Enactment of the provisions of Part B is estimated to result in no additional costs in fiscal year 1985.

## TITLE III—VETERANS' EMPLOYMENT PROGRAMS

### *Section 301*

Would amend, effective on the date of enactment, present section 2014 of title 38, United States Code, relating to Federal employment of certain disabled veterans and Vietnam-era veterans, to extend and improve the veterans readjustment appointment (VRA) authority—the authority for noncompetitive 2-year appointments of certain Vietnam-era veterans up to the level of GS-7 or the equivalent. Following successful completion of the 2-year appointment, including a program of education or training, a veteran is eligible for conversion to career or career-conditional status.

*Clause (1) of subsection (a) of section 301* would amend present section 2014(b)(1) to add a new clause as follows:

*New clause (D) of section 2014(b)(1):* Would provide that a veteran who receives an appointment under the VRA authority and who is terminated during the first year after the date of the appointment has the same right to appeal the termination to the Merit Systems Protection Board (MSPB) as a career or career-conditional employee has during the first year of employment. At present, veterans with VRA's have no appeal rights until they have completed 1 year of employment. At that point—under subchapter II of chapter 75 of title 5, United States Code, relating to severe adverse actions against Federal employees, and, specifically, section 7511(a)(1), which includes a preference eligible who has completed 1 year of continuous service in the definition of an employee for purposes of the procedural rights afforded under that subchapter—these veterans have the right to appeal terminations and certain other adverse actions to the MSPB. However, career and career-conditional employees who are in probationary status (first-year employees) do have certain limited appeal rights with respect to terminations. These appeal rights, enunciated in section 315.806 of title 5 of the Code of Federal Regulations, provide such employees with the right to appeal, on procedural grounds only, terminations for conditions that arose before their employment began and the right to appeal terminations alleged to be based on discrimination on account of partisan political reasons or marital status. Thus, the effect of the Committee bill would be to grant first-year VRA appointees these same limited appeal rights.

*Clause (2) of subsection (a) of section 301* would amend present section 2014(b)(2) to extend the VRA authority for 1 year, until September 30, 1985.

*Subsection (b) of section 301* would amend present section 2014(d), relating to the Office of Personnel Management's responsibilities for reviewing and evaluating Federal agencies' implementation of certain employment programs for veterans, to reduce—from at least semiannual to at least annual—the frequency with which OPM must publish a report on the agencies' implementation and related activities.

### *Section 302*

Would amend, effective on the date of enactment, the provisions of Public Law 98-77, the Emergency Veteran's Job Training Act of 1983 (EVJTA), to extend and improve the EVJTA program.

*Subsection (a) of section 302* would amend present EVJTA section 5(b)(3)(A), relating to certificates of eligibility provided to veterans under the program, to extend the lifetime of those certificates from 60 days to 90 days.

*Subsection (b) of section 302* would amend present EVJTA section 16, relating to the period during which appropriations made for the program may be expended, to extend by 1 year, from October 1, 1986, to October 1, 1987, the date on which the availability of such appropriations for expenditure terminates.

*Subsection (c) of section 302* would amend present EVJTA section 17, relating to the termination of the program, to provide for a 6-month extension of the date by which a veteran must enter a program of training in order for a payment of assistance to be made on the veteran's behalf. Currently, under the provisions of section 17, veterans must enter training prior to March 1, 1985; the Committee bill would extend this deadline until September 1, 1985.

*Title III—Cost:* Enactment of the provisions of title III is estimated to result in no additional costs in fiscal year 1985.

## TITLE IV—VETERANS' ADMINISTRATION NON-SERVICE-CONNECTED DISABILITY PENSION

*Section 401*

Would establish a 3- to 4-year pilot project of trial work periods for needy wartime veterans receiving VA pension on the basis of their being permanently and totally disabled.

*Paragraph (1) of subsection (a) of section 401* would amend present chapter 15 of title 38, United States Code, relating to the VA need-based non-service-connected pension program for, among others, permanently and totally disabled wartime veterans and for wartime veterans over 65 years of age, to add a new section 524, entitled "Trial work period for pension recipients", as follows:

*Subsection (a) of new section 524:* Would provide that, subject to subsections (d) and (f) of this new section (described below) and for purposes of determining whether a veteran is permanently and totally disabled for purposes of pension under chapter 15, activity performed by the veteran for remuneration or gain during a period of trial work—a 36-month period under subsection (e)(1) of this section (described below)—shall be deemed not to have been performed by the veteran during that period. This provision is based on the trial work period concept under the Social Security Act (SSA) for disability insurance beneficiaries (section 222(c)) and disabled supplementary security income recipients (section 1614(a)(4)).

*Subsection (b) of new section 524:* Would provide that, notwithstanding any provision of chapter 17 of title 38, relating to VA health-care services, in the case of a veteran whose pension under section 521 of title 38 (the section in chapter 15 actually providing for pension payments) is terminated by reason of income from work or training, the veteran's eligibility for care and services under chapter 17 would continue for the duration of the veteran's period of trial work. This provision would, for the duration of the veteran's trial work period, preserve (1) the eligibility of veteran-pensioners (by reason of section 622(a) of title 38), without the need to demonstrate inability to defray the costs of care, for VA health care for non-service-connected disabilities that require hospital, nursing home, or domiciliary care, or outpatient treatment in order to obviate the need for hospital care; (2) the eligibility (under section 612(g) of title 38) of a veteran-pensioner who is in need of regular aid and attendance or is permanently housebound for outpatient care, including certain limited contract-care eligibility (in conjunction with section 601(4)(C)(ii) of title 38), and home health services for any non-service-connected disabilities; (3) such a veteran-pensioner's special entitlement (under section 612(h) of title 38) to medicine and drugs; and (4) the piority required (by section 612(i)(5) of title 38) to be given such a veteran-pensioner in the provision of VA medical services, namely a priority ahead of all other veterans with no service-connected disabilities except for former prisoners of war and certain veterans receving treatment for disabilities that might be the result of their exposure during active duty to dioxin or ionizing radiation.

*Paragraph (1) of subsection (c) of new section 524:* Would provide for extended protection of the VA health-care eligibility (as described above in the analysis of subsection (b) of this new section) of a veteran-pensioner whose pension entitlement is terminated by reason of income from work or training either during the veteran's participation in or following the veteran's completion of a vocational rehabilitation program under chapter 31 of title 38 or under the Federal-State program under title I of the Rehabilitation Act of 1973. The veteran would retain that health-care eligibility for 1 year after the termination of either the veteran's pension or the veteran's participation in the vocational rehabilitation program, whichever is later.

*Paragraph (2) of subsection (c) of new section 524:* Would provide that, notwithstanding section 503 of title 38, relating to determinations of annual income for VA pension purposes, in the case of a veteran participating in a vocational rehabilitation program under chapter 31 of title 38 or under the Federal-State program under title I of the Rehabilitation Act of 1973, payment to the veteran of a subsistence or maintenance allowance under that program for any month during which it is necessary for the veteran to reside away from the veteran's permanent residence in order to participate in the program shall not be counted as income to the veteran for pension purposes.

*Paragraph (1) of subsection (d) of new section 524:* Would provide that, in order for a period of trial work to apply in an individual case, the veteran must, not later than the thirtieth day after beginning work, notify the VA in writing that he or she desires or intends to work or has begun to work and that he or she desires to participate in a period of trial work.

*Paragraph (2) of subsection (d) of new section 524:* Would provide that a veteran may not participate in more than one period of trial work under this new section.

*Paragraph (3) of subsection (d) of new section 524:* Would expressly clarify that, except as provided in subsection (c)(2) of this new section (described above), no provision of this new section shall result in any payment received by a veteran being disregarded for purposes of determining the veteran's annual income for purposes of chapter 15 of title 38.

*Subsection (e) of new section 524:* Would provide two definitions for purposes of this new section: First, "period of trial work" would mean the 36-month period following the date on which the veteran begins to perform work (or work-like activity, as determined under subsection (a) of this new section) in connection with which the veteran provides notice (under subsection (d)(1) of this new section) of the veteran's desire to participate in a trial work period; and, second, "terminated by reason of income from work or training" would mean, with respect to a veteran's pension, terminated as a result of the veteran's receipt of earnings from activity performed for remuneration or gain, but only if the veteran's annual income from other sources alone would not result in termination of the veteran's pension. The latter term is used in the provisions of this new section—subsections (b) and (c)(1)—that provide for the protection of the veteran's VA health-care eligibility (derived from his or her status as a pensioner) despite the fact that the veteran's receipt of earned income has resulted in termination of the veteran's pension. This definition would clarify that this protection would not be afforded where the veteran's income other than income from work or training activities was sufficient to result in termination of the veteran's pension.

*Paragraph (1) of subsection (f) of new section 524:* Would provide that this new section shall take effect on the first day of the fifth full month following the debate of enactment. Thus, for example, if the Committee bill were enacted on September 25, 1984, this new section would take effect on February 1, 1985.

*Paragraph (2) of subsection (f) of new section 524:* Would provide that no period of trial work under this section shall be available to a veteran unless the veteran has provided the notice required by subsection (d)(1) of this new section and has performed at least 1 month's work or work-like activity prior to the 37th month following the month this new section takes effect (or the 49th month following the effective date month, if the Administrator determines that it is in the best interests of veterans and the United States to extend the pilot program for a year). The Administrator would be required promptly to notify the Congressional Committees on Veterans' Affairs of any extension of the trial work period pilot program.

*Paragraph (2) of subsection (a) of section 401* would amend the table of sections at the beginning of chapter 15 of title 38 to reflect the addition of new section 524.

*Subsection (b) of section 401* would require the Administrator, not later than 39 months after new section 524 takes effect, to report to the Veterans' Affairs Committees on the results of the first 3 years' experience under the trial work period pilot program. The Administrator would be required to include in the report the Administrator's assessments of the value (including the cost-effectiveness) and effect of the program and any recommendations by the Administrator for administrative and legislative action.

### *Section 402*

*Subsection (a) of section 402* would require the Administrator, not later than 28 months after the date of enactment, to submit to the Congressional Committees on Veterans' Affairs a report containing a statistical tabulation of the results of the examinations conducted as described in subsection (b) of this section.

*Subsection (b) of section 402* would, for the purpose of the preparation of the report described in subsection (a), require the conduct of medical examinations of and the assignment of disability percentage ratings to certain veterans who are awarded pensions on the grounds of being over age 65 rather than on the grounds of actually being physically or mentally disabled. Specifically, in the case of each veteran who receives an award of VA pension during the 2-year period beginning on the enactment date and who is considered—under section 502(a) of title 38, relating to pension eligibility criteria—to be permanently and totally disabled by reason of being 65 years of age or older or becoming unemployable after age 65, the Administrator would be required to conduct and the veteran to undergo the kind of medical examination that is administered to veterans applying for compensation under chapter 11 of title 38, and the Administrator would be required to determine what, if any, percentage rating would be applicable to the veteran under the schedule of ratings adopted pursuant to section 355 of title 38, relating to the Administrator's authority to adopt a schedule of percentage ratings for disabilities.

*Title IV—Costs:* Enactment of the provisions of title IV is estimated to cost $1.4 million in budget authority and $1.2 million in outlays in fiscal year 1985.

## TITLE V—OTHER BENEFIT RATE INCREASES

### *Section 501*

Would amend present section 802 of title 38, United States Code, relating to the maximum amounts of assistance available under the specially adapted housing programs for certain severely, service-connected disabled veterans, to provide for a 10-percent increase, effective July 1, 1985, in those maximum amounts.

*Clause (1) of section 501* would amend present section 802(a) to increase by 10 percent, from $32,500 to $35,750, the maximum amount of assistance for specially adapted housing that may be provided in the case of a veteran who suffers permanent and total service-connected disability consisting of either loss of use of both lower extremities, blindness in both eyes and the loss of use of one lower extremity, or the loss of use of one lower extremity and any other disability (among those specified in current law) that precludes locomotion without the aid of braces, crutches, canes, or a wheelchair.

*Clause (2) of section 501* would amend present section 802(b) to increase by 10 percent, from $5,000 to $5,500, the maximum amount of assistance for specially adapted housing that may be provided in the case of a veteran who suffers from service-connected blindness in both eyes with 5/200 visual acuity of less or from the service-connected loss of use of both hands.

### *Section 502*

Would amend present section 1902(a) of title 38, relating to the maximum amount of the one-time grant available to certain severely service-connected disabled veterans for the purchase of an automobile, to increase that grant by 10-percent, from $4,400 to $4,840, effective July 1, 1985.

### *Section 503*

Would provide that the amendments made by sections 501 and 502 of the Committee bill would take effect on July 1, 1985.

*Title V—Costs:* Enactment of the provisions of title V is estimated to cost $.9 million in both budget authority and outlays in fiscal year 1985.

## TITLE VI—MISCELLANEOUS PROVISIONS

### *Section 601*

Would amend present section 101 of title 38, relating to definitions for the purposes of veterans' benefits, to expand the definition of the term "Vietnam era".

*Subsection (a) of section 601* would amend present section 101(29) of title 38, defining for title 38 purposes the term "Vietnam era" as the period beginning on August 5, 1964, and ending on May 7, 1975, to provide that in the cases of those who served in the Republic of Vietnam during the period beginning on February 21, 1961 (the date established in Public Law 89-257 for acceptance of foreign awards for service in Vietnam), and ending on August 4, 1964 (the day before the starting date of the era in current law), the Vietnam era also includes that period. The effect of this amendment would be to provide those who service in Vietnam during the 3 years and 5½ months prior to the current beginning date of the Vietnam era with general eligibility (subject to any applicable length of service requirement) for non-service-connected pension benefits under chapter 15 of title 38 (for those who also meet the disability (or age) requirement and income and net worth limitations); readjustment counseling under section 612A of title 38; certain burial benefits under section 902 (for those who are destitute and whose bodies are not claimed); extended eligibility for certain on-job training and education benefits under chapter 34 (for those who are educationally disadvantaged, unskilled, or unemployed); home-loan guaranty benefits under chapter 37 (in cases of those who served more than 89 but less than 181 days); certain employment benefits under chapter 41 and 42, and eligibility under the Emergency Veterans' Job Training Act of 1983 (for those who are long-term unemployed).

*Subsection (b) of section 601* would provide that the amendment made by this section of the Committee bill would take effect on October 1, 1984, or the date of enactment, whichever is the later.

### *Section 602*

Subsection (a) of section 602 would provide that, notwithstanding any other provision of law (and as limited by subsection (b) of this section to the period January 1, 1984, through December 31, 1987), remuneration provided to a veteran or other participant in a therapeutic or rehabilitative activity carried out pursuant to present section 618 of title 38, relating to VA patients' work in certain VA therapeutic or rehabilitative work activities, shall not be counted as income for the purpose of payments of VA pension as defined in present section 101(15) of title 38. That definition includes all VA pension programs—both the current, so-called "improved" pension program, under chapter 15 of title 38, and the closed programs under which payments are made only to those who were "grandfathered" under a prior program, *i.e.*, were permitted (by section 9(b) of the Veterans' Pension Act of 1959 or section 306(a)(2) of the Veterans' and Survivors Pension Improvement Act of 1978) to continue receiving the amount of pension they were receiving at the time that a new pension program went into effect. With certain specified exceptions, all income received by a VA pensioner under the current "improved" program reduces that individual's pension dollar for dollar. In the cases of "grandfathered" participants in the closed programs, their eligibility for continued payment depends on their total annual non-pension income remaining below specified amounts. Thus, in the cases of both improved pension recipients and those receiving pension under a grandfather provision, current law creates strong disincentives for participation in work therapy programs. Under the current program, since each dollar of remuneration for participation in a section 218 program reduces the individual's pension by $1, the individual receives no financial reward for his or her work; under the old program, an individual may be at risk of being permanently removed from the pension rolls if his or her remuneration under section 218, together with his or her other countable income, were to exceed the specified income limitation. Thus, the effect of the Committee bill would be to remove, for 3 fiscal years (plus, as noted in the discussion of subsection (b)(2) of this section, below, part of fiscal year 1984 in some cases), the disincentive under current law to participate in section 218 work-therapy programs.

*Paragraph (1) of subsection (b) of section 602* would provide that subsection (a) of this section shall take effect on October 1, 1984, and shall cease to have effect on January 1, 1988, thus continuing in effect only through December 31, 1987.

*Paragraph (2) of subsection (b) of section 602* would make it possible for individuals participating in section 618 therapeutic or rehabilitative activities between January 1, 1984, and the October 1, 1984, effective date to receive after October 1, 1984, the value of an income exclusion for remuneration they receive from their work in such activities. Thus, an individual who was a participant in such an activity on January 1, 1984—or became a participant on a date between January 1, 1984, and October 1, 1984—and who either participated continuously in the activity through September 30, 1984, or terminated participation earlier in order to enter into a higher-paying job would, as of October 1, 1984, be entitled to payment for the amount of pension that he or she would have been entitled to receive by virtue of the exclusion from countable income that subsection (a) of this section of the Committee bill would have created if subsection (a) had become effective as of January 1, 1984. For example, if an individual receiving VA pension under the current pension program entered a rehabilitative work-therapy program on March 1, 1984, remained in it continuously through August 30, 1984, left the program to take a higher paying job and had received average remuneration of $300 per month, or $1,800 for the 6 months he or she had been in the program, the amount of pension reduction that that individual would incur under current law by virtue of that $1,800 in income would be offset by the $1,800 in pension to which this provision would entitle him or her. Similarly, if that individual were a "grandfathered" pensioner and the $1,800 in income would cause him or her to be terminated, this provision would entitle him or her to any pension lost by virtue of the $1,800 in income having been counted. The Committee notes that, in such a case of a grandfathered pensioner being terminated because of the receipt of remuneration in a section 218 activity, he or she (if over age 65 or disabled) would be eligible for improved pension if his or her annual income did not exceed—or at any future time does not exceed—the applicable income standard under the improved program.

With respect to the requirement that the individual participate in a section 218 activity "continuously" from January 1, 1984—or a subsequent date on which the individual entered such a program prior to October 1, 1984—the Committee notes that it is not its intention that "continuously" be rigidly applied. Rather, the Committee intends that brief interruptions resulting from illness or injury or from disruptions in the section 218 activity not be construed as breaks in continuous participation as long as the individual's conduct under the circumstances is consistent with the intention to maintain his or her participation.

*Subsection (c) of section 602* would require the Administrator, not later than October 1, 1987, to submit to the Congressional Committees on Veterans' Affairs a report, with respect to fiscal years 1985 and 1986, on the implementation of subsections (a) and (b) of this section of the Committee bill. The report would be required to contain information regarding the numbers of individuals who participated in section 618 activities, the numbers of participants who are VA pensioners, the costs of excluding section 618 income from countable income for pension purposes, and the effect of the income exclusion on veterans' participation in such activities. The report would also include any recommendations that the Administrator has for legislative or administrative action in this area.

*Subsection (d) of 602 section* would amend present section 618 to add a new subsection (f), as follows:

*New subsection (f) of section 618:* Would provide that neither a veteran's participation in a section 618 activity nor the veteran's receipt of remuneration as a result of such participation may be considered as a basis for the denial, or discontinuance of a total disability rating, for purposes of VA compensation or pension, based on the veteran's inability to secure or follow a substantially gainful occupation as a result of disability. Under the provisions in VA regulations (section 4.16 of title 38, Code of Federal Regulations) implementing the Administrator's authority, under present section 355 of title 38, to adopt and apply a schedule for rating disabilities under the service-connected disability compensation program, a total disability rating—often referred to as an "individual unemployability rating"—is to be granted, even though the so-called "schedular" rating is less than total, if the veteran is determined on a case-by-case basis to be unable to secure or follow a substantially gainful occupation as a result of service-connected disabilities. VA regulations (section 4.17 of title 38, Code of Federal Regulations) implementing the VA's non-service-connected disability pension program contain provisions having the same effect with respect to total disability ratings for non-service-connected disabilities. Thus, the new subsection (f) would prohibit a veteran's participation in a section 618 program and remuneration therefor from being considered as a reason to deny or discontinue a total disability rating based on individual unemployability.

This new subsection would not cause the remuneration itself to be excluded from countable income, a subject dealt with by the provisions of subsection (a) of this section of the Committee bill.

### *Section 603*

Would amend present section 3012(b) of title 38, relating to the effective date of reductions in compensation, disability and indemnity compensation (DIC), and pension, to delete the provision (clause (7)) that specifies that the date of a reduction in compensation, DIC, or pension that occurs by reason of the discontinuance of school attendance by an over-age-18 dependent of the recipient shall be the last day of the month in which the discontinuance occurs. The effect of deleting this provision would be to provide that the reduction would occur (as specified in present section 3012(a)) in accordance with the facts found, that is, on the date on which the discontinuance occurs.

*Section 604*

Would amend present section 3203(b)(1), relating to limitations on the size of certain single, institutionalized, incompetent veterans' estates which, when exceeded, result in the suspension of benefit payments by the VA, to remove a reference to mental illness as the cause of the incompetence and to permit the VA to exclude the value of the veterans' home from the estate unless there is no reasonable likelihood that the veteran will again reside in the home.

*Section 605*

Would amend present section 103, relating to special provisions relating to marriages, to remove various gender references.

*Title VI—Costs:* Enactment of the provisions of title VI is estimated to cost $1.8 million in both budget authority and outlays in fiscal year 1985.

### TABULATION OF VOTES CAST IN COMMITTEE

In compliance with paragraph 7 of rule XXVI of the Standing Rules of the Senate, the following is a tabulation of votes cast in person or proxy by members of the Committee on Veterans' Affairs at a July 25, 1984, meeting to consider S. 2736.

The committee agreed to report S. 2736, with an amendment in the nature of a substitute, favorably to the Senate by a 12-to-0 vote, as follows:

| YEAS—12 | NAYS—0 |
|---|---|
| Alan Simpson | |
| Strom Thurmond | |
| Robert Stafford | |
| Frank Murkowski | |
| Arlen Specter | |
| Jeremiah Denton | |
| Rudy Boschwitz | |
| Alan Cranston | |
| Jennings Randolph | |
| Spark Matsunaga | |
| Dennis DeConcini | |
| George Mitchell | |

Prior to that vote, a motion to amend the Committee bill was made. The Committee did not adopt a motion made by Senator Randolph to modify the Committee bill so as to provide for the addition of systemic lupus erythematosis to the list of chronic diseases becoming manifest within 1 year after the veteran's discharge that are presumed to be service-connected for VA disability compensation purposes. The record vote of 6–6, was as follows:

| NAYS (6) | YEAS (6) |
|---|---|
| Alan Simpson | Alan Cranston |
| Strom Thurmond | Jennings Randolph |
| Robert Stafford | Spark Matsunaga |
| Frank Murkowski | Dennis DeConcini |
| Jeremiah Denton | George Mitchell |
| Rudy Boschwitz | Arlen Specter |

## Agency Reports

The Veterans' Administration submitted letters dated April 4 and 24, 1984, transmitting proposed legislation.

In response to requests by the Committee Chairman that the VA report to the Committee its views on a number of bills that were introduced, the VA reported its views on S. 2267 and S. 2268 on May 7, 1984; S. 2451 on June 18, 1984; and S. 2736, S. 2737, and S. 2760 on August 27, 1984. Similarly, in response to requests by the Committee Chairman for Agency views on S. 2268 and S. 2451, as introduced, the Office of Management and Budget reported its views on May 11 and July 16, 1984, respectively.

The VA and OMB reports on the agencies views follow:

Office of the
Administrator
of Veterans Affairs

Washington DC 20420

Veterans
Administration

APRIL 4-1984

Honorable George Bush
President of the Senate
Washington, D. C. 20510

Dear Mr. President:

Enclosed is a draft bill entitled the "Veterans' Readjustment Act of 1984." I request that this measure be introduced and receive favorable consideration by the Congress.

This measure is designed to amend or repeal various provisions of title 38, United States Code, which relate to providing vocational rehabilitation and education benefits to eligible veterans and other eligible individuals.

Title I of the bill authorizes a 15 percent rate increase in subsistence allowances for veterans pursuing programs of vocational rehabilitation under chapter 31, and in educational assistance allowance rates for veterans and dependents pursuing programs of education under chapters 34, 35, and 36, effective January 1, 1985. Title II contains a number of changes in our education programs, including an increase in reporting fees payable to educational institutions and certain training establishments under chapter 36. Title III repeals the Veterans Administration authority to make education loans to veterans and eligible persons. Title IV sets forth effective dates for the rate increases and contains a savings clause relating to overpayments. A section-by-section analysis of the draft measure setting forth the basis for each recommended change is also enclosed.

It is estimated that enactment of the rate increase contained in Title I of the draft bill would result in direct benefits costs in Fiscal Year 1985 totaling $132.7 million, and $652.2 million for the first 5 fiscal years. The increase in reporting fees authorized by Title II would result in administrative costs totaling approximately $1.6 million in Fiscal Year 1985, and $5.9 million for the first 5 fiscal years. These costs are already included in the President's budget for Fiscal Year 1985. Other Title II amendments would result in insignificant administrative costs (under $100,000) in Fiscal Year 1985, and under $1 million over the first 5 fiscal years. Enactment of Title III would result in benefits savings under $1 million in any fiscal year and relatively insignificant administrative savings (under $100,000) in any fiscal year.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this draft bill to the Congress, and its enactment would be in accord with the program of the President.

Sincerely,

Everett Alvarez Jr.
Deputy Administrator - For
HARRY N. WALTERS
Administrator

Enclosures

## A BILL

To amend title 38, United States Code, to increase the rates of subsistence and educational assistance allowances for veterans pursuing vocational rehabilitation programs under chapter 31 and for veterans and eligible persons pursuing programs of education under chapters 34, 35, and 36; to make certain improvements in the educational assistance programs for veterans and eligible persons; to repeal the education loan program; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

### SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE

Section 1. (a) This Act may be cited as the "Veterans' Readjustment Act of 1984".

(b) Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

## TITLE I--EDUCATION AND TRAINING RATE INCREASES

SEC. 101. The table contained in section 1508(b) is amended to read as follows:

| "Column I | Column II | Column III | Column IV | Column V |
|---|---|---|---|---|
| Type of program | No dependents | One dependent | Two dependents | More than two dependents |
| | | | | The amount in column IV, plus the following for each dependent in excess of two: |
| Institutional training: | | | | |
| Full-time..... | $324 | $401 | $472 | $34 |
| Three-quarter-time........ | 243 | 300 | 354 | 25 |
| Half-time..... | 162 | 200 | 236 | 17 |
| Farm cooperative, apprentice, or other on-job training: | | | | |
| Full-time..... | 282 | 341 | 394 | 25 |
| Extended evaluation: | | | | |
| Full-time..... | 324 | 401 | 472 | 34 |
| Independent living training: | | | | |
| Full-time..... | 324 | 401 | 472 | 34 |
| Three-quarter-time........ | 243 | 300 | 354 | 25 |
| Half-time..... | 162 | 200 | 236 | 17.". |

SEC. 102. Chapter 34 is amended by--

(1) amending the table contained in paragraph (1) of section 1682(a) to read as follows:

| "Column I | Column II | Column III | Column IV | Column V |
|---|---|---|---|---|
| Type of program | No dependents | One dependent | Two dependents | More than two dependents |
| | | | | The amount in column IV, plus the following for each dependent in excess of two: |
| Institutional training: | | | | |
| Full-time..... | $393 | $468 | $533 | $33 |
| Three-quarter-time......... | 294 | 351 | 399 | 24 |
| Half-time.... | 196 | 234 | 266 | 16 |
| Cooperative..... | 317 | 371 | 422 | 24"; |

(2) striking out "$342" in section 1682(b) and inserting in lieu thereof "$393";

(3) amending the table contained in section 1682(c) to read as follows:

| "Column I | Column II | Column III | Column IV | Column V |
|---|---|---|---|---|
| Basis | No dependents | One dependent | Two dependents | More than two dependents |
| | | | | The amount in column IV, plus the following for each dependent in excess of two: |
| Full-time..... | $317 | $371 | $422 | $24 |
| Three-quarter-time........ | 237 | 278 | 316 | 18 |
| Half-time..... | 158 | 185 | 211 | 12"; |

and

(4) striking out "$76" and "$911" in section 1692(b) and inserting in lieu thereof "$87" and "$1,044", respectively.

SEC. 103. Chapter 35 is amended by--

(1) striking out "$276" in section 1732(b) and inserting in lieu thereof "$317"; and

(2) striking out "$342", "$108", "$108", and "$11.44" in section 1742(a) and inserting in lieu thereof "$393", "$124", "$124", and "$13.15", respectively.

SEC. 104. Chapter 36 is amended by--

(1) striking out "$342" in section 1786(a)(2) and inserting in lieu thereof "$393"; and

(2) amending the table contained in paragraph (1) of section 1787(b) to read as follows:

| "Column I | Column II | Column III | Column IV | Column V |
|---|---|---|---|---|
| Periods of training | No dependents | One dependent | Two dependents | More than two dependents |
|  |  |  |  | The amount in column IV, plus the following for each dependent in excess of two: |
| First 6 months... | $286 | $320 | $350 | $14 |
| Second 6 months.. | 213 | 249 | 279 | 14 |
| Third 6 months... | 142 | 178 | 207 | 14 |
| Fourth and any succeeding 6-month periods.. | 71 | 105 | 136 | 14". |

TITLE II--EDUCATIONAL ASSISTANCE PROGRAM ADJUSTMENTS

SEC. 201. Section 1631 is amended by--

(1) inserting "or is pursuing a farm cooperative, apprenticeship or other on-job training program," after "correspondence," in subsection (c); and

(2) adding at the end thereof the following new subsection:

"(d) The Administrator may, pursuant to regulations which the Administrator shall prescribe, permit an eligible individual to be paid accelerated education assistance benefits under this chapter where the eligible individual is pursuing a short-term, high-cost program and the Administrator determines it to be in the interest of the eligible individual and the Federal Government.".

SEC. 202. Section 1632 is amended to read as follows:

"(a) No educational assistance benefits shall be afforded an eligible veteran under this chapter beyond the date of 10 years after such veteran's last discharge or release from active duty. In the case of any eligible veteran who was prevented from initiating or completing such veteran's chosen program of education within such time period because of a physical or mental disability which was not the result of such veteran's own willful misconduct, such veteran shall, upon application made within 1 year after (1) the last date of the delimiting period otherwise applicable under this section, or (2) the termination of the period of such mental or physical disability, whichever is later, be granted an extension of the applicable delimiting period for such length of time as the Administrator determines, from the evidence, that such veteran was so prevented from initiating or completing such program of education. When an extension of the applicable delimiting period is granted a veteran under the preceding sentence, the delimiting period with respect to such veteran will again begin running on the first day following such veteran's recovery from such disability on which it is reasonably feasible, as determined in accordance with regulations which the Administrator shall prescribe, for such veteran to initiate or resume pursuit of a program of education with educational assistance under this chapter.

"(b) In the event an eligible veteran has not utilized any or all of such veteran's entitlement by the end of the 10-year period, such eligible veteran is automatically disenrolled and any contributions made by such veteran remaining in the fund shall be refunded to the veteran following notice to the veteran and an application by the veteran for such refund. If no application is received within 1 year from date of notice, it will be presumed, for the purpose of section 1322(a) of title 31, that the individual's whereabouts is unknown and the funds shall be transferred as directed in section 1322(a).".

SEC. 203. Section 1641 is amended by--

(1) inserting "(a)" before "The";

(2) striking out "to the program";

(3) inserting immediately after "applicable" the following: "to those individuals pursuing programs of education or training, while on active duty"; and

(4) adding at the end thereof the following new subsection:

"(b) The provisions of sections 1663, 1670, 1671, 1673, 1674, 1676, 1682(c)(1), 1683, 1685, and 1691(a)(1) of this title and the provisions of chapter 36 shall be applicable to those individuals pursuing programs of education or training following their discharge or release from active duty.".

SEC. 204. Section 1652(a)(1)(B) is amended to read as follows:

"(B) contracted with the Armed Forces and was enlisted in or assigned to a reserve component prior to January 1, 1977, or was a member of the 1977 graduating class at one of the service academies, and as a result of such enlistment, assignment, or 1977 graduation from a service academy, served on active duty for a period of more than 180 days, any part of which commenced within 12 months after January 1, 1977, and was discharged or released from such active duty under conditions other than dishonorable; or".

SEC. 205. Section 1662(e) is amended to read as follows:

"(e) The Secretary of Defense shall reimburse the Administrator for all amounts of educational or training assistance allowances paid by the Administrator under this chapter or chapter 36 of this title after December 31, 1989.".

SEC. 206. Section 1663 is amended by inserting immediately after the first sentence the following: "Such counseling shall be required prior to the selection of a program of education or training in the case of any veteran rated by the Veterans' Administration as being incompetent.".

SEC. 207. Section 1685(b) is amended by striking out "chapters 31 and 34" and inserting in lieu thereof "chapters 31, 32, and 34".

SEC. 208. Section 1712(b) is amended by adding at the end thereof a new paragraph (3) to read as follows:

"(3) Notwithstanding the provisions of paragraph (1) of this subsection, in the case of any eligible person (as defined in section 1701(a)(1)(B), (C), or (D) of this title) who was prevented from initiating or completing such person's chosen program of education within such period because of a delay in determining such person's eligibility, such person shall, subject to the approval of the Administrator, be permitted to elect the most favorable date to commence receiving educational assistance benefits under this chapter.".

SEC. 209. (a) Section 1720 is amended to read as follows:

"§ 1720. Educational and vocational counseling

"The Administrator may, upon request, arrange for educational or vocational counseling for persons eligible for benefits under this chapter to assist such persons in selecting their educational, vocational, or professional objectives and in developing their programs of education.".

(b) Section 1721 is amended by--

(1) striking out "finally";

(2) striking out clause (1);

(3) redesignating clauses (2), (3), (4), and (5) as clauses (1), (2), (3), and (4), respectively; and

(4) amending the catch line at the beginning to read as follows:

"§ 1721. Approval of application.".

(c) The items relating to sections 1720 and 1721 in the table of sections at the beginning of chapter 35 are amended to read as follows:

"1720. Educational and vocational counseling.

"1721. Approval of application.".

SEC. 210. Section 1784 is amended by--

(1) adding at the end of subsection (a) the following:

"Notwithstanding the provisions of this subsection, in the case of independent study or self-paced courses pursued on a less than half-time basis, the Administrator may, upon request by the educational institution, approve a delay in reporting the enrollment or reenrollment of an eligible veteran or eligible person until the end of the term, quarter, or semester, provided the institution obtains consent to the delay from the veteran or eligible person."; and

(2) striking out "$7" and "$11" in the second sentence of subsection (c) and inserting in lieu thereof "$11" and "$15", respectively.

SEC. 211. Section 1796 is amended by striking out subsection (d).

## TITLE III--REPEAL OF EDUCATION LOAN PROGRAM; TECHNICAL AMENDMENTS

SEC. 301. (a) Section 1662(a) is amended by--

(1) striking out paragraph (2) in its entirety; and

(2) redesignating paragraph (3) as paragraph (2).

(b) Section 1682A is repealed.

(c) Section 1686 is repealed.

(d) Section 1712 is amended by--

(1) striking out subsection (f); and

(2) redesignating subsection (g) as subsection (f).

(e) Section 1737 is repealed.

(f) Section 1738 is repealed.

(g) Subchapter III of chapter 36 is repealed in its entirety.

SEC. 302. (a) The table of sections at the beginning of chapter 32 is amended by striking out "1631. Entitlement; loan eligibility." and inserting in lieu thereof "1631. Entitlement; payment of benefits.".

(b) The catch line at the beginning of section 1631 is amended by striking out "loan eligibility" and inserting in lieu thereof "payment of benefits".

(c) The table of sections at the beginning of chapter 34 is amended by striking out the following items:

"1682A. Accelerated payment of educational assistance allowances.

"1686. Education loans.".

(d) The table of sections at the beginning of chapter 35 is amended by striking out the following items:

"1737. Education loans.

"1738. Accelerated payment of educational assistance allowances.".

(e) The table of sections at the beginning of chapter 36 is amended by striking out:

"SUBCHAPTER III--EDUCATION LOANS TO ELIGIBLE VETERANS AND ELIGIBLE PERSONS

"1798. Eligibility for loans; amount and conditions of loans; interest rate on loans.

"1799. Revolving Fund; insurance.".

## TITLE IV--EFFECTIVE DATE; SAVINGS CLAUSE

SEC. 401. The provisions of title I of this Act shall become effective on January 1, 1985.

SEC. 402. Notwithstanding the provisions of section 301 of this Act repealing the authority of the Administrator to make education loans, the Administrator is authorized to continue to collect principal and interest on outstanding loans and any overpayments established under the law. Such collections, and all funds which heretofore would have been available to the Administrator for the making of educational loans on the effective date of section 301 of this Act, shall be credited to and merged with the appropriation for readjustment benefits and may be used for the purposes of that appropriation.

## SECTION-BY-SECTION ANALYSIS

### SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE

### Section 1

Subsection (a) provides that the draft proposal may be cited as the "Veterans' Readjustment Act of 1984."

Subsection (b) provides that, unless otherwise specified, whenever in the proposal an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

### TITLE I--GI BILL RATE INCREASES

This title of the measure provides a 15 percent rate increase in subsistence allowances for those veterans pursuing programs of vocational rehabilitation under chapter 31. We believe that this rate increase, effective January 1, 1985, is justified. The last increase for this program was authorized by Public Law 96-466, effective October 1, 1980, and totaled approximately 17 percent. The 15 percent increase proposed for this program is entirely consistent with the intent of the VA's vocational rehabilitation program which is designed to provide assistance necessary for the rehabilitation of this Nation's veterans, particularly in light of the increases in subsistence costs which have occurred since the last rate increase became effective.

This title of the measure also provides 15 percent increases in educational assistance allowance rates for those veterans and dependents pursuing programs of education under chapters 34, 35, and 36 of title 38. We believe these rate increases, effective January 1, 1985, are also warranted under the circumstances. The last general rate increase of 10 percent for these programs was approved in Public Law 96-466, and consisted of a 5 percent increase effective October 1, 1980, and a second 5 percent increase effective January 1, 1981. We believe that the 15 percent upward adjustment at this time would be in consonance with the nature of our established goals under our education programs, particularly in light of the substantial increases in the costs of education which have occurred since the last rate increase was enacted.

### Section 101

This section amends section 1508(b) to provide a 15 percent increase in the subsistence allowance rates for veterans pursuing vocational rehabilitation programs under chapter 31. This would cover those veterans who are pursuing institutional training; farm cooperative, apprentice, or other on-job training; involved in extended evaluations; or participating in independent living programs.

## Section 102

This section provides a 15 percent increase in educational assistance rates for veterans pursuing institutional and cooperative training (clause 1); for those pursuing training while on active duty with the Armed Forces or on a less than half-time basis (clause 2); for veterans pursuing farm cooperative training (clause 3); and for those veterans who are being tutored (clause 4).

## Section 103

This section provides a 15 percent rate increase for spouses, surviving spouses, and children pursuing education under the Survivors' and Dependents' education program (clause 1) and for those children in need of special restorative training (clause 2).

## Section 104

This section provides a 15 percent increase for eligibles pursuing correspondence training (clause 1); and for those pursuing on-job and apprentice training programs (clause 2).

## TITLE II--EDUCATIONAL ASSISTANCE PROGRAM ADJUSTMENTS

### Section 201

This section would make two amendments to section 1631 of title 38. The first amendment would provide that the monthly benefits payable and the entitlement charged to chapter 32 trainees for pursuit of a farm cooperative, apprenticeship or other on-job training program would be computed in the same manner as is set forth, under current law, for chapter 32 trainees pursuing other forms of training. This provision is necessitated by, and is consistent with, the new authorization for certain eligible chapter 32 individuals to pursue such training programs, contained in section 203 of the draft measure.

The second amendment to section 1631 would add a new subsection (d) to permit chapter 32 trainees to accelerate their benefits while pursuing short-term, high-cost courses if it is determined that an acceleration would be in the best interests of the eligible individual and the Federal Government.

Under present law, the monthly rate of educational assistance benefits payable to a veteran is based upon the amount of the contributions and the number of monthly payments made to the fund by the veteran. This procedure has caused problems for those individuals who wish to pursue short-term, high-cost courses to realize their vocational objective. The monthly amount presently payable will not adequately assist such individuals in meeting their immediate educational expenses. This proposed change would ameliorate these problems and better serve chapter 32 trainees in attaining their education goals.

### Section 202

This section would amend section 1632 of title 38 by dividing the section into subsections (a) and (b). The basic purpose of this change is to add new language to the new subsection (a) to permit a veteran, training under chapter 32, who is prevented from initiating or completing a chosen program of education because of a physical or mental disability not resulting from the individual's own misconduct, to qualify for an extension of the basic 10-year period. The extension would cover the period of time the veteran was prevented from initiating or completing the program of education within the veteran's basic 10-year period.

Under present law, chapter 32 participants are not afforded this extension privilege as are those veterans and eligible dependents training under chapters 34 and 35. Chapter 32 veterans should be afforded this same extension privilege granted other educational beneficiaries under the VA's education programs, and this change would accomplish the goal of establishing parity regarding extensions.

### Section 203

This section would amend section 1641 of title 38 to provide statutory authority for those chapter 32 participants who have been discharged or released from active duty to pursue farm cooperative, apprentice, or other on-job training.

Section 1641 currently provides that certain provisions of chapters 34 and 36 of title 38 (the GI Bill) shall be applicable to the chapter 32 contributory education program. However, there are presently no references in section 1641 to those sections of law which authorize pursuit of farm cooperative, apprentice, or other on-job training by veterans eligible under the chapter 32 contributory program.

At the time the contributory program was originally enacted, consideration was primarily focused on affording benefits for those individuals who were in the service. Since individuals in the military are required to devote full time to their military occupations, they would not be in a position to take advantage of farm cooperative, apprentice, or other on-job training which requires full-time pursuit. It is therefore equitable to permit former service personnel participating in the chapter 32 program to pursue these training opportunities.

This proposal would amend section 1641 by dividing the section into subsections (a) and (b). Subsection (a) would set forth those provisions of chapters 34 and 36 applicable to those individuals pursuing programs of education or training while on active duty.

New subsection (b) would set forth provisions of chapters 34 and 36 applicable to those individuals who have been discharged or released. These would include sections of those chapters which authorize pursuit of farm cooperative, apprentice, or other on-job training. This would accomplish the goal of allowing these veterans to pursue these additional forms of beneficial training.

### Section 204

This section would revise section 1652(a)(1)(B) of title 38, to extend eligibility for education benefits under the chapter 34 GI Bill education program to individuals who served as cadets or midshipmen at one of the service academies and who graduated in 1977.

In the enactment of Public Law 94-502, on October 15, 1976, the Congress restricted eligibility for educational assistance benefits under the GI Bill to those individuals entering active military service prior to January 1, 1977. However, an exception was made for those individuals who contracted with the Armed Forces and were enlisted in or assigned to a reserve component prior to January 1, 1977, provided that they entered on active duty before January 2, 1978, served for a period of more than 180 days (unless discharged for a service-connected disability), and were discharged or released from active duty under conditions other than dishonorable.

Included within the exception were individuals who entered on active duty prior to January 2, 1978, following their placement in the "Delayed Entry Program" or service in the Reserve Officers Training Corps (ROTC). Not covered, however, were individuals who served as cadets and midshipmen at one of the service academies and who, following graduation in 1977, entered active duty prior to January 2, 1978. Although these latter individuals had contracted with the Armed Forces prior to 1977, they did not meet the statutory requirement of enlistment in or assignment to a reserve component.

We believe that an inequity was created between these academy graduates who are barred from chapter 34 eligibility and those members of ROTC who received a full scholarship and qualify for GI Bill education benefits. The statutory requirement which distinguishes these two categories of persons is merely technical, not qualitative.

This proposed change would correct the inequity by permitting those service academy graduates who graduated in 1977 and entered active duty prior to January 2, 1978, to qualify for eligibility under the chapter 34 education program.

## Section 205

This section would amend section 1662(e) of title 38 by repealing the existing prohibition against payment, after December 31, 1989, of educational or training assistance afforded eligible veterans under chapters 34 and 36 of title 38--the "Vietnam era GI Bill." This section would also require the Secretary of Defense to reimburse the Administrator for all such assistance paid by the

VA after December 31, 1989. Enactment of this section would permit veterans whose normal periods of GI Bill eligibility would not expire until after December 31, 1989, to utilize educational benefits beyond that date to the end of the otherwise applicable eligibility period (generally, 10 years from discharge or release from active duty).

We believe that both equitable considerations and military retention needs dictate that individuals who remain in the service should be granted the full 10-year period after discharge or release within which to use their GI Bill eligibility. The Department of Defense also supports such a proposal, since it is that Department's view that a repeal of the current termination date would have the beneficial effect of retaining in the service those individuals with GI Bill eligibility who would otherwise leave the service to take advantage of these benefits.

Enactment of section 205 would result in no additional costs in Fiscal Year 1985. In fact, there would be no costs associated with this proposal until Fiscal Year 1990.

## Section 206

This section would amend section 1663 of title 38 to insert a requirement that veterans who have been rated incompetent by the Veterans Administration undergo mandatory educational and vocational counseling prior to selection of a program of education or training under chapter 34.

Under current law, such a requirement is not mandated for those veterans held incompetent. Counseling is purely discretionary upon the request of the eligible veteran. Requiring counseling for these veterans prior to selecting their programs of education or training would mean that they would be much better equipped to select a program of education based upon their particular limitations. This would enhance their opportunities of pursuing programs more realistic to their needs. Allowing them to pursue programs for which there is very little chance of success does a great disservice to them.

## Section 207

This section would amend section 1685(b) of title 38 to authorize the extension of work-study benefits to those veterans who are eligible under the chapter 32 contributory education program and who have been discharged or released from active service.

Under current law, section 1685(b) permits the Veterans Administration to pay additional monetary benefits to eligible veterans in return for their performing services for the VA, provided that they are pursuing full-time training either under the VA's chapter 31 vocational rehabilitation program or the chapter 34 educational assistance program.

The VA has received complaints from individuals participating in the chapter 32 program regarding the amount of their educational assistance. The primary complaint is that the current benefit levels fail to adequately permit eligibles to realistically pursue many forms of education and training. It is believed that even the addition of modest amounts of income, such as the income available from work-study, may make the difference between full-time attendance or dropping out of school. This proposed change would merely accord the same opportunity to discharged chapter 32 participants as is presently afforded chapter 31 and 34 participants, and is justified by the circumstances.

### Section 208

This section would amend section 1712(b) of title 38 to add a new paragraph (3) authorizing an eligible spouse or surviving spouse training under chapter 35 of title 38, where delay has been encountered in determining the individual's eligibility, to elect the most favorable date from which the 10-year eligibility period will commence and the individual may receive chapter 35 benefits. This election would be subject to the approval of the Administrator of Veterans' Affairs.

Under current law, section 1712(b) specifies the occurrences upon which eligibility will be afforded those spouses or surviving spouses eligible under chapter 35. However, it does not take into account situations where the individual has already commenced training, but the eligibility determination is delayed or the initial denial is subsequently overturned on appeal.

Great inconvenience to the eligible spouse can result inasmuch as the individual will probably have already paid for tuition and fees to attend school. This proposed change would permit the eligible spouse or surviving spouse, subject to the limitation of approval by the Administrator, to avoid such inconvenience by electing the date that benefits are scheduled to commence.

### Section 209

This section would rewrite section 1720 to remove the requirement that an educational plan be submitted by a parent or guardian on behalf of a child eligible to receive chapter 35 benefits.

Under present law, section 1720(a) provides that the Administrator may, on request, arrange for educational or vocational counseling to help the parent or guardian, as well as the eligible child, in selecting and preparing a program of education for the eligible child. During or after this counseling, the parent or guardian is required to prepare an educational plan for the eligible child. The plan is signed by the parent or guardian and becomes a part of the application for educational assistance.

We believe there is no real need for an educational plan to be submitted. At its core, the educational plan is nothing more than enrollment data which would have to be furnished in any event as part of the process leading to the payment of educational benefits. As a result, it is our view that this provision may be eliminated.

The counseling which may be provided on request is equally applicable to spouses and children eligible under chapter 35. Therefore, the provisions of subsections (a) and (b) have been combined into one single section, and the section heading has been revised to reflect elimination of the need for the plan.

Section 1721 and the section heading have also been amended to reflect the changes incorporated in section 1720.

### Section 210

This section would make two amendments to section 1784 of title 38. First, it would amend subsection (a) of that section to permit educational institutions, with the consent of an eligible veteran or person, to delay certifying enrollments of enrollees until the end of the term, quarter, or semester in the case of independent study or self-paced courses pursued on a less than half-time basis.

Currently, section 1784(a) requires educational institutions and veterans or eligible persons to report to the Administrator, without delay, the enrollment and any interruption of the education of such eligible individuals. Schools offering independent study programs or self-paced courses have suggested, however, that it would be to the mutual advantage of the school and the VA to permit a 6-month delay in reporting enrollments. We believe that a delay in certifying enrollments could, in fact, avoid overpayments in circumstances where the self-paced nature of the course pursuit limits the ability of the school to discover and report changes to, or termination of, enrollments. This proposal would accomplish this and, at the same time, protect the eligible individual's interests by requiring his or her consent to the delay in certification.

Second, this section would amend subsection (c) of section 1784 by increasing the reporting fee payable thereunder to educational institutions and certain training establishments for reports or certifications which they are required by law or regulation to submit to the VA.

Under current law, the reporting fee is computed at the rate of $7 for each eligible individual enrolled in the institution, generally as of October 31 of the reporting year, or at the rate of $11 for each such eligible individual to whom the institution delivered an advance payment check. This proposal would increase the reporting fee payable in each instance to $11 and $15, respectively.

It has been over 6 years since the reporting fee rates were last increased (from $5 and $6, respectively, to the present rates, by Pub. L. No. 95-202). Educational institutions throughout the country have complained that current payments do not allow them to maintain adequate recordkeeping practices concerning eligible veterans or eligible persons. Schools have also indicated that advance-payment and standards-of-progress reporting requirements have further increased their administrative costs.

We believe the proposed increase in the reporting fee rates is justified in light of the continuing increases in administrative costs encountered by these schools, and will enhance their recordkeeping and reporting performance.

Section 211

This section would amend section 1796 of title 38 by striking subsection (d). This provision of law requires the Veterans Administration to report to the Congress each year on the nature and disposition of all cases involving deceptive advertising practices. It has been our experience in recent years that there are very few cases involving such practices. Thus, there does not appear to be any need for filing this report. Accordingly, there is no reason to retain the requirement.

## TITLE III--REPEAL OF EDUCATION LOAN PROGRAM

### Section 301

This section would amend or repeal various sections of title 38 which authorize the Veterans Administration to make education loans (including "accelerated payments") to veterans and eligible persons.

Subchapter III of chapter 36, title 38, currently permits the VA to make direct education loans to veterans and eligible persons for up to 2 years after their eligibility would otherwise expire, provided that they (1) pursue their program full-time; (2) continue in the same program; and (3) have remaining entitlement. Loans also may be made to veterans in flight training who are paid at the 60 percent reimbursement level and who have remained continuously enrolled since prior to August 31, 1981.

The VA education loan program has experienced an excessively high default rate which has resulted in large overpayments. In recent years, Congress has acted to bar the making of these loans to most veterans. In the enactment of Public Law 97-35, the Omnibus Reconciliation Act of 1981, the number of education loans which could be made was drastically reduced. It is recommended that the final step be taken to remove all authority of the VA to make education loans.

Additionally, title 38 contains two provisions, section 1682A and section 1738, authorizing eligible veterans and eligible persons, respectively, to receive education loans in accordance with subchapter III of chapter 36 in the form of accelerated payments of educational assistance allowances. Accelerated payment under these sections was made contingent upon establishment, before November 24, 1982, of programs by States to pay the VA amounts which would match the accelerated payments authorized by the Administrator. Although one State timely enacted a law establishing such a program, it did not thereafter provide necessary funding. Consequently, since no State complied with the statutory matching fund requirement, the program was never utilized, and has now expired. This section would repeal these inoperative accelerated payment provisions.

### Section 302

This section would make technical amendments deleting all title 38 references to educational loans, consistent with the repeal of the education loan program by section 301 of this bill.

## TITLE IV--EFFECTIVE DATE; SAVINGS CLAUSE

### Section 401

This section provides that the rate increases authorized in title I shall become effective on January 1, 1985.

### Section 402

This section provides that, notwithstanding the repeal of the education loan authority presently contained in title 38, the Administrator shall continue to collect the principal and interest on those loans which are outstanding, together with any overpayments which are established under the program. It further provides that such collections, as well as funds available for making educational loans at the time of repeal, shall be credited to the Readjustment Benefits Appropriation.

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Office of the
Administrator
of Veterans Affairs

Washington, D.C. 20420

Veterans
Administration

APRIL 24 1984

Honorable George Bush
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

I am pleased to forward a draft bill to increase rates of compensation for service-disabled veterans and rates of dependency and indemnity compensation (DIC) payable to certain veterans' survivors, and for other purposes. I respectfully request its introduction and enactment.

Title I would authorize the disability compensation rate increase. The compensation program is designed to provide monetary relief from impairments in earning capacity suffered by veterans disabled during, or as a result of, military service. Rates of compensation vary with the degrees of disability suffered. Section 355 of title 38 requires disability ratings to represent, to the extent practicable, the average impairment in earning capacity in civil occupations resulting from such disabilities. Special higher rates are payable for specified disabilities, and additional compensation is payable for dependents if the veteran's disability is rated 30 percent or more disabling.

Administration of this program is one of the VA's most important missions. We recognize a duty to recommend periodic adjustments in monthly rates as economic conditions change.

In recent years, compensation adjustments have been keyed to indexed cost-of-living increases in Social Security and VA pensions. With enactment of the Social Security Amendments of 1983, Pub. L. No. 98-21, the effective date for annual increases in these programs has been shifted from June 1 of each year to December 1 -- in essence a deferral of six months. Last April, consistent with Pub. L. No. 98-21, we proposed a similar deferral for the compensation rate adjustment and recommended a 3.5 percent increase to be effective April 1, 1984. Such an adjustment has been authorized by Pub. L. No. 98-223. We now propose that the next compensation rate adjustment be effective April 1, 1985, and be the same as the percentage projected for the December 1, 1984 increase in Social Security and VA pensions. Our current projection for this increase is 4.1 percent, which is based on the April update of the President's Budget.

Section 101 would increase rates of disability compensation, including the so-called special monthly compensation rates (except the "K" rate), by 4.1 percent. As with all rates in our proposal, odd amounts resulting from our computations were rounded down to even dollars.

Sections 102 and 103 would, respectively, provide for an approximate 4.1 percent increase in rates of additional compensation for dependents and in the clothing allowance payable under section 362 of title 38 to certain veterans wearing or using prosthetic or orthopedic appliances.

Title II would authorize increases in dependency and indemnity compensation (DIC) rates. DIC is payable under chapter 13 of title 38 to the surviving spouses and children of veterans whose deaths were service connected. Payments at DIC rates may also be made if a veteran's death was not service connected but the veteran was rated as totally disabled for specified periods prior to death. Surviving spouses' DIC rates are based on the veterans' military pay grades. A surviving spouse may receive additional payments for the veteran's children under the age of 18, or if the surviving spouse is disabled. Children over age 18 who became helpless before reaching age 18 may receive DIC, as can those age 18 to 23 attending approved educational institutions. If there is no surviving spouse, a child under the age of 18 may also receive DIC in the child's own right.

Sections 201 through 203 would increase DIC rates by approximately 4.1 percent, also effective April 1, 1985.

Our five-year estimate of the cost of enactment of titles I and II, as reflected in the April budget update, is as follows (in millions of dollars):

| | | |
|---|---|---|
| FY | 1985 | $ 197.4 |
| FY | 1986 | $ 394.9 |
| FY | 1987 | $ 396.4 |
| FY | 1988 | $ 397.9 |
| FY | 1989 | $ 399.2 |

Title III contains four miscellaneous proposals, three of which would affect benefits eligibility. The fourth makes provision for a three-year extension of the Administrator's authority to maintain a regional office in the Republic of the Philippines.

Section 301 would change the effective date for a reduction or discontinuance of those benefits that are based upon school attendance of a payee or payee's dependent. Under current law, reductions occur as of the last day of the month in which the school attendance is discontinued. Under this proposal, the effective date for a reduction or discontinuance would be the day following the last date of attendance based upon section 3012(a) of title 38.

This change would be in conformance with current rules for discontinuing benefits for, or on behalf of, certain dependents under age 18 on a "facts-found" basis, that is, as of the child's eighteenth birthday. We believe there is no substantive difference between terminating benefits based upon a child's attainment of age 18 and terminating benefits for a school child between ages 18 and 23 who discontinues his or her attendance.

We estimate enactment of this proposal would result in benefits savings of less than $1 million in any fiscal year.

Section 302 would amend section 360 of title 38, which affords special consideration regarding payment of compensation in cases where veterans have suffered certain service-connected disabilities affecting a single eye, ear, or kidney in combination with certain nonservice-connected disabilities affecting the other eye, ear, or kidney. Under present law, if a veteran has suffered service-connected blindness in one eye, service-connected deafness in one ear, or service-connected loss or loss of use of one kidney, in combination with nonservice-connected blindness in the other eye, deafness in the other ear, or severe involvement of the other kidney (resulting in total disability), compensation at the appropriate rate is paid as if the disabilities affecting both organs were service connected.

Section 360 was originally enacted in recognition of the additional disability attendant to nonservice-connected loss or loss of function of a second paired organ where service connection is established for the disability affecting the first. It serves to equate, in terms of compensation, these types of cases to those where the disability affecting both organs is adjudicated as service connected.

Section 302 would extend the principle of "paired organ impairment" to certain disabilities of the lungs so that if a veteran has suffered permanent disability of one lung, rated 50 percent or more disabling, which is totally disabling in combination with a nonservice-connected disability of the other lung, compensation would be paid at the total-disability rate.

Very few cases would be affected. Therefore, costs of enactment of this section would be less than $1 million in benefit costs and less than $100,000 in administrative costs in any fiscal year.

Section 303 would amend section 3203(b)(1) of title 38, which essentially prohibits payment of compensation or pension benefits during the period in which an incompetent veteran whose estate is valued in excess of $1,500, and who has no spouse, children, or dependent parents, is being furnished hospital treatment, or institutional or domiciliary care, at Government expense or at the expense of a political subdivision of the United States. Once the value of the estate is reduced to $500, payments to such veterans may be resumed.

The purpose of this statute is to prevent gratuitous benefits, for an incompetent veteran receiving care at public expense, from accumulating in large amounts and subsequently passing upon the veteran's death to remote heirs having no claims against the Government on account of the veteran's military service or otherwise having no close contacts with the veteran prior to his or her death. In addition, because expenses relating to the veteran's immediate needs during hospitalization, or other care, are fully borne by taxpayers, continued payment of benefits could be considered duplicative.

Although the purpose of this statute is clear, the best interests of incompetent veterans are not always served by its application. For example, if an incompetent hospitalized veteran owns a home, benefits would almost certainly be discontinued under present law because the value of the real property in all likelihood exceeds $1,500. The veteran's home is now considered part of the estate. If the benefits withheld by the VA were earmarked for home mortgage or other property-related payments, or utility bills, the veteran may be forced into default. We know of several cases where incompetent hospitalized veterans have in fact lost their homes because VA benefits were withheld, and therefore were homeless upon discharge from the hospitals.

We do not believe Congress intended this harsh and inequitable result when it sought to prevent excessive accumulations in incompetent veterans' estates. Section 303 would, therefore, exclude from consideration the value of such veterans' homes for the purpose of determining the value of their estates. The exclusion would not, however, apply in those cases in which there is no reasonable likelihood their health will improve to the point they will again be able to reside in their homes.

Section 303 would also make two minor technical changes by deleting the phrases "by reason of mental illness", in reference to incompetency, and "from any source", in reference to the value of the veteran's estate. Mental incompetency results from diseases as well as injuries which render veterans mentally incapable of conducting or managing their affairs, including disbursement of funds. Removal of the phrase "by reason of mental illness" would not alter our present interpretation of this section. In addition, removal of the phrase "from any source" would also not alter our interpretation of this section because we believe "from any source" is inherent in the term "estate." This technical change is consistent with the above-described substantive change excepting the value of a veteran's home from consideration as part of the estate.

We are not able to determine the cost of this proposal because we have no readily ascertainable data upon which to make an estimate.

Under present law, the Administrator is authorized to maintain and operate a regional office in the Republic of the Philippines until September 30, 1985. Section 304 would extend this authority to September 30, 1988. Through our office in Manila, we administer programs providing compensation, pension and education for more than 38,000 Filipino beneficiaries. In fiscal year 1982, $125 million in benefits was paid to these individuals. It has been the Agency's experience that there is a significant advantage in maintaining a regional office in Manila, where the local employees' understanding of Filipino culture and language greatly facilitates the processing of claims. The proposed extension of the Administrator's authority to operate this office would enable this Agency to continue to best meet the needs of its Filipino beneficiaries.

We estimate the annual cost of this proposal to be approximately $1.4 million.

Title IV of the draft bill specifies an effective date of April 1, 1985, for the amendments made in titles I and II. The effective date for amendments made in title III would be the date of enactment.

Advice has been received from the Office of Management and Budget that there is no objection to the submission of this draft bill to the Congress, and that its enactment would be in accord with the program of the President.

Sincerely,

Harry N. Walters

HARRY N. WALTERS
Administrator

Enclosure

98th Congress
Second Session

S.______

A BILL

To amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans and to increase the rates of dependency and indemnity compensation for surviving spouses and children of veterans; and for other purposes.

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) This Act may be cited as the "Veterans' Disability Compensation and Survivors' Benefits Amendments of 1984".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

## TITLE I--COMPENSATION RATE INCREASES

### RATES OF DISABILITY COMPENSATION

SEC. 101. (a) Section 314 is amended --

(1) by striking out "$64" in subsection (a) and inserting in lieu thereof "$66";

(2) by striking out "$118" in subsection (b) and inserting in lieu thereof "$122";

(3) by striking out "$179" in subsection (c) and inserting in lieu thereof "$186";

(4) by striking out "$258" in subsection (d) and inserting in lieu thereof "$268";

(5) by striking out "$364" in subsection (e) and inserting in lieu thereof "$378";

(6) by striking out "$459" in subsection (f) and inserting in lieu thereof "$477";

(7) by striking out "$579" in subsection (g) and inserting in lieu thereof "$602";

(8) by striking out "$671" in subsection (h) and inserting in lieu thereof "$698";

(9) by striking out "$755" in subsection (i) and inserting in lieu thereof "$785";

(10) by striking out "$1,255" in subsection (j) and inserting in lieu thereof "$1,306";

(11) by striking out "$1,559" and "$2,185" in subsection (k) and inserting in lieu thereof "$1,622" and "$2,274", respectively;

(12) by striking out "$1,559" in subsection (l) and inserting in lieu thereof "$1,622";

(13) by striking out "$1,719" in subsection (m) and inserting in lieu thereof "$1,789";

(14) by striking out "$1,954" in subsection (n) and inserting in lieu thereof "$2,034";

(15) by striking out "$2,185" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$2,274";

(16) by striking out "$938" and "$1,397" in subsection (r) and inserting in lieu thereof "$976" and "$1,454", respectively;

(17) by striking out "$1,404" in subsection (s) and inserting in lieu thereof "$1,461";

(18) by striking out "$271" in subsection (t) and inserting in lieu thereof "$282".

(b) The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

### RATES OF ADDITIONAL COMPENSATION FOR DEPENDENTS

SEC. 102. Section 315(1) is amended--

(1) by striking out "$77" in clause (A) and inserting in lieu thereof "$80";

(2) by striking out "$128" and "$41" in clause (B) and inserting in lieu of thereof "$133" and "$42", respectively;

(3) by striking out "$52" and "$41" in clause (C) and inserting in lieu thereof "$54" and "$42", respectively;

(4) by striking out "$62" in clause (D) and inserting in lieu thereof "$64";

(5) by striking out "$139" in clause (E) and inserting in lieu thereof "$144"; and

(6) by striking out "$116" in clause (F) and inserting in lieu thereof "$120".

### CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS

SEC. 103. Section 362 is amended by striking out "$338" and inserting in lieu thereof "$351".

## TITLE II--DEPENDENCY AND INDEMNITY COMPENSATION RATE INCREASES

### RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR SPOUSES

SEC. 201. (a) Subsection (a) of section 411 is amended to read as follows:

"(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

| "Pay grade | Monthly rate | "Pay grade | Monthly rate |
|---|---|---|---|
| E--1 | --------$479 | W--4 | ------ $688 |
| E--2 | --------$494 | 0--1 | ------ $606 |
| E--3 | --------$505 | 0--2 | -------$626 |
| E--4 | --------$539 | 0--3 | -------$670 |

| | | | |
|---|---|---|---|
| E--5 | -------$553 | 0--4 | --$708 |
| E--6 | -------$566 | 0--5 | --$781 |
| E--7 | -------$594 | 0--6 | --$880 |
| E--8 | -------$626 | 0--7 | --$952 |
| E--9 | -------$654 1/ | 0--8 | --$1,044 |
| W--1 | -------$606 | 0--9 | --$1,121 |
| W--2 | -------$631 | 0--10 | --$1,227 2/ |
| W--3 | -------$649 | | |

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"1/ If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $705.

"2/ If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,316."

(b) Subsection (b) of such section is amended by striking out "$53" and inserting in lieu thereof "$55".

(c) Subsection (c) of such section is amended by striking out "$139" and inserting in lieu thereof "$144".

(d) Subsection (d) of such section is amended by striking out "$68" and inserting in lieu thereof "$70".

## RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 202. Section 413 is amended--

(1) by striking out "$233" in clause (1) and inserting in lieu thereof "$242";

(2) by striking out "$334" in clause (2) and inserting in lieu thereof "$347";

(3) by striking out "$432" in clause (3) and inserting in lieu thereof "$449"; and

(4) by striking out "$432" and "$87" in clause (4) and inserting in lieu thereof "$449" and "$90", respectively.

### RATES OF SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 203. Section 414 is amended--

(1) by striking out "$139" in subsection (a) and inserting in lieu thereof "$144";

(2) by striking out "$233" in subsection (b) and inserting in lieu thereof "$242"; and

(3) by striking out "$118" in subsection (c) and inserting in lieu thereof "$122".

## TITLE III--MISCELLANEOUS AMENDMENTS

### DISCONTINUANCE OF BENEFITS BASED ON SCHOOL ATTENDANCE AS OF THE LAST DATE OF ATTENDANCE

SEC. 301. Section 3012(b) is amended--

(1) by striking out clause (7); and

(2) by redesignating clauses (8), (9), and (10) as clauses (7), (8), and (9), respectively.

### EXTENSION OF PAIRED ORGAN CRITERIA TO DISABILITIES OF THE LUNGS

SEC. 302. Section 360 is amended--

(1) by inserting after clause (3) "or" followed by a new clause (4) to read as follows: "(4) has suffered permanent service-connected disability of one lung, rated 50 percent or more disabling, which is totally disabling in combination with non-service-connected disability of the other lung that is not the result of the veteran's own willful misconduct,"; and

(2) by inserting "or such bilateral lung disabilities" after "such total deafness in both ears".

### EXCLUSION OF VALUE OF INSTITUTIONALIZED INCOMPETENT VETERAN'S HOME IN DETERMINING VALUE OF VETERAN'S ESTATE FOR BENEFIT PAYMENT PURPOSES

SEC. 303. Section 3203(b)(1) is amended--

(1) by striking out "by reason of mental illness";

(2) by inserting "(excluding the value of the veteran's home if it appears reasonably certain the veteran will again reside in such home)," after "the veteran's estate"; and

(3) by striking out "from any source".

### EXTENSION OF AUTHORITY FOR VETERANS' ADMINISTRATION OFFICE IN THE REPUBLIC OF THE PHILIPPINES

SEC. 304. Section 230(b) is amended by striking out "1985" and inserting in lieu thereof "1988".

## TITLE IV - EFFECTIVE DATES

SEC. 401. The amendments made by titles I and II of this Act shall take effect on April 1, 1985.

SEC. 402. The amendments made by title III shall take effect on the date of enactment of this Act.

Office of the
Administrator
of Veterans Affairs

Washington DC 20420

Veterans
Administration

MAY 7 - 1984

Honorable Alan K. Simpson
Chairman, Committee on
Veterans' Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

I am pleased to respond to your request for the views of the Veterans Administration on S. 2267, a bill that would increase to $4,840 the maximum assistance the Veterans Administration may provide to certain severely service-disabled veterans for the purchase of automobiles. We strongly favor an increase in the allowance, but we believe a greater increase than that proposed in S. 2267 is in order.

Under chapter 39 of title 38, United States Code, the Veterans Administration is responsible for administering a program which assists certain severely disabled veterans (and certain persons on active duty in the Armed Forces) purchase automobiles. To qualify for benefits under this program, an individual must have one of the following disabilities resulting from an injury incurred or disease contracted in or aggravated by active military service: (1) the loss or permanent loss of use of one or both feet, (2) the loss or permanent loss of use of one or both hands, or (3) permanent impairment of vision of statutorily specified degree.

Presently, under 38 U.S.C. § 1902(a), a maximum award of $4,400 is payable toward the purchase of an automobile. (Such an award is also payable to an eligible person who cannot qualify to operate an automobile if the vehicle to be purchased will be operated for the eligible person by someone else.) This purchase allowance is payable on a one-time basis only. In addition, the law also authorizes the Administrator to provide these and certain other eligible persons the adaptive equipment necessary to assure the safe operation of their vehicles, assistance not restricted to once-only entitlement.

The automobile assistance allowance was last adjusted in 1981, when, with the enactment of Pub. L. No. 97-66, the maximum allowable award was increased from $3,800 to the present level. Since that last increase, the average cost of new automobiles in this country has increased significantly. According to the Bureau of Economic Analysis, Department of Commerce, the average costs of new cars sold in the United States from 1981 through 1983 were as follows:

1981: $8,929
1982: $9,853
1983: $10,527

These figures show an increase of almost 18% in automobile costs during that period. Given the magnitude of this price increase, we certainly agree that an adjustment of the VA automobile assistance allowance is in order. However, we believe that the increase to $4,840 proposed in S. 2267 is less than is needed. A bill recently introduced in the House, H.R. 4890, would increase the maximum automobile assistance allowance to $5,000, an increase of nearly 14%, in contrast with the 10% increase proposed in S. 2267. Because the increase proposed in H.R. 4890 more closely approximates the actual increase which has occurred in new car costs since 1981, the Veterans Administration prefers the House bill to S. 2267.

We estimate the five-year costs of S. 2267 would be as follows:

| Fiscal Year | Grants Affected | Cost ($000) |
|---|---|---|
| 1985 | 700 | $308 |
| 1986 | 600 | 264 |
| 1987 | 500 | 220 |
| 1988 | 400 | 176 |
| 1989 | 350 | 154 |
| | | $1,122 |

The Veterans Administration supports an increase in the maximum automobile assistance allowance, but as explained above, we believe there is more justification for the benefit level proposed in H.R. 4890.

Advice has been received from the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

Everett Alvarez Jr. Deputy Administrator • For
HARRY N. WALTERS
Administrator

Office of the
Administrator
of Veterans Affairs

Washington, D.C. 20420

Veterans
Administration

MAY 7, 1984

Honorable Alan K. Simpson
Chairman, Committee on
Veterans' Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

I am pleased to answer your request for the views of the Veterans Administration on S. 2268, 98th Congress, 2d Session, a bill "To amend title 38, United States Code, to extend the authority for veterans readjustment appointments."

The Veterans Administration strongly supports extending through September 30, 1987, the Veterans Readjustment Appointments (VRA) authority in 38 U.S.C. § 2014. Under this authority, Federal agencies can noncompetitively appoint qualified disabled veterans and veterans of the Vietnam era to civil service positions. These veterans' appointments can be converted to career or career-conditional appointments after two years of satisfactory employment and training. The VRA authority has been most beneficial to the Veterans Administration in providing necessary staff and has led to successful careers for many disabled and Vietnam-era veterans who, once given the opportunity, have proven to be high-quality employees.

VA is proud, in fact, to be one of the leading users of this authority. Since the program's inception, over one-third of all VRA appointments in the Government have been made by the VA. Our use of Veterans Readjustment Appointments has also helped us meet our affirmative action goals. For example, as of a year ago, almost 50 percent of our VRA appointees were minorities. An extension of the VRA authority would allow the Veterans Administration and other Federal agencies to reach many more Vietnam-era and disabled veterans who need only the opportunity to prove their ability to overcome employment barriers which remain, even years after the conclusion of the Vietnam era.

The continuing unemployment of many Vietnam-era veterans further demonstrates the need for extending VRA authority. In January 1983, for example, the unemployment rate for male

Vietnam-era veterans was 1.3 percent higher than the rate for all male war veterans. (Data for female veterans is not compiled.)

Extending the Veterans Readjustment Appointments authority is essentially a cost-free method of helping veterans complete their readjustment to civilian life. It is expected that the extension of this authority would have no budgetary impact on the Veterans Administration.

In addition to extending VRA authority, the VA favors improving it as provided for by the OPM bill submitted to Congress on February 24, 1984. In particular, we favor (1) eliminating the current prohibition against granting appointments to nondisabled veterans under this authority if they have had over 14 years of education, (2) increasing the maximum grade level for appointments from GS-7 to GS-9, and (3) providing limited appeal rights to appointees who are terminated during their first year of employment. These improvements would make the VRA authority fairer and more flexible.

In sum, we strongly support S. 2268 because it benefits members of our society who have made special contributions to our national welfare.

The Office of Management and Budget has advised that there is no objection to the submission of this report to the Congress and that enactment of S. 2268 with the amendments noted above would be consistent with the Administration's objectives.

Sincerely,

Everett Alvarez
Deputy Administrator • For

HARRY N. WALTERS
Administrator

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

MAY 11 1984

Honorable Alan K. Simpson
Chairman
Committee on Veterans' Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This is in reply to the Committee's request for the views of this Office on S. 2268, "To amend title 38, United States Code, to extend the authority for veterans readjustment appointments."

The purpose of the bill is to extend through September 30, 1987, the Veterans Readjustment Appointment (VRA) program which expires September 30, 1984.

In its report, the Veterans Administration states its support for extension of the VRA program and also recommends additional improvements in the program which were recommended in the Office of Personnel Management draft VRA bill extension submitted to the Congress on February 24, 1984. These would (1) eliminate the limit on educational attainment of nondisabled veterans; (2) increase the maximum entry level from GS-7 to GS-9; and (3) provide limited appeal rights for veterans terminated during their first year of employment.

We recommend enactment of S. 2268, amended to incorporate the improvements by the Office of Personnel Management. Enactment of S. 2268 with such amendments would be consistent with the Administration's objectives.

Sincerely,

James M. Frey

James M. Frey
Assistant Director for
Legislative Reference

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Office of the
Administrator
of Veterans Affairs

Washington DC 20420

Veterans
Administration

JUNE 18 1984

Honorable Alan K. Simpson
Chairman, Committee on
Veterans' Affairs
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

This will respond to your request for the views of the Veterans Administration on S. 2451, 98th Congress, a bill "To amend title 38, United States Code, to increase the maximum amounts of the Veterans' Administration's specially adapted housing assistance grants provided to certain severely, service-connected disabled veterans and the maximum amounts of Veterans' Administration home loan guaranties."

This bill would increase the dollar limitations on various VA housing programs.

The first section of S. 2451 would increase the current Specially Adapted Housing Grant from $32,500 to $38,000 and increase the maximum housing grant for veterans who are blind or have lost or lost the use of both hands from $5,000 to $6,000. The current law provides that the traditional Specially Adapted Housing Grant authorized under 38 U.S.C. § 802(a) cannot exceed 50 percent of the cost to the veteran of the housing unit and land on which it is located up to the maximum. In 1983 the average grant provided a veteran with 37 percent of the funds necessary to obtain a specially adapted house. Therefore, in view of the amount of the existing grant and the stabilization of the economy, an increase in the Specially Adapted Housing Grant would not be warranted at this time.

The bill would also increase the grant authorized under 38 U.S.C. § 802(b) which currently has a maximum of $5,000. The special $5,000 grant program for veterans who are blind or have lost or lost the use of both hands was enacted on October 1, 1980. Since implementation, there have been

454 grants to blind veterans averaging $4,692 each and 23 grants to veterans who have lost or lost the use of both hands averaging $4,306 each. There have been, however, a few instances where the $5,000 grant was not adequate to meet the needs of these severely disabled veterans. As the instances are few and the increase to $6,000 would only involve a slight increase, the cost of such an increase in grant payments would be minimal. Accordingly, we favor the increase in the maximum for this special grant from $5,000 to $6,000.

Section 2(a) of the bill would increase the maximum guaranty under 38 U.S.C. § 1810 for conventionally built homes from $27,500 to $35,000. During Fiscal Year 1983, the average loan amount was $62,127. The guaranty for these loans under the current maximum of $27,500 would be 44.26 percent.

The VA guaranty is intended to provide the lender the protection provided by a down payment on a conventional home loan. The guaranty protection of over 44 percent on the average VA home loan in the recently ended fiscal year is considerably greater than the 20 to 25 percent down payment protection normally obtained on conventional loans. Experience shows that the secondary market normally demands 25 percent protection on Government backed home loans. Thus, the current $27,500 guaranty would support a loan of $110,000, far in excess of the average VA home loan amount.

Section 2(b) of the bill makes certain technical amendments made necessary by the guaranty increase.

Section 2(c) of S. 2451 would increase the maximum guaranty under 38 U.S.C. § 1819 on manufactured homes from $20,000 to $22,000. With respect to manufactured homes, the VA guarantees 50 percent of the loan amount, up to a maximum guaranty of $20,000. Therefore, a loan would need to exceed $40,000 before the lender would receive less than the full 50 percent guaranty protection contemplated by the statute. In Fiscal Year 1983 the average VA manufactured home loan was $21,020.

Based on these facts, we oppose increasing the VA loan guaranty amounts.

The following reflects costs associated with the first section of S. 2451, related to both specially adapted housing programs:

| FY | Grants Affected | Cost ($000) |
|---|---|---|
| 1985 | 500 | $ 2,300 |
| 1986 | 490 | 2,245 |
| 1987 | 480 | 2,190 |
| 1988 | 470 | 2,135 |
| 1989 | 460 | 2,080 |
|  | 2,400 | $10,950 |

The following reflects 5-year cost estimates of increasing the home loan guaranty from $27,500 to $35,000:

| FY | Claims Affected | Cost ($000) (A) | Cost ($000) (B) |
|---|---|---|---|
| 1985 | 566 | $ 133 | $ 3,096 |
| 1986 | 3,704 | 903 | 21,343 |
| 1987 | 6,241 | 1,599 | 37,789 |
| 1988 | 7,530 | 1,991 | 47,785 |
| 1989 | 8,361 | 2,279 | 55,032 |
| Total | 26,402 | $6,905 | $165,045 |

Column (A): assumes continuation of present practice of acquiring properties at foreclosure.

Column (B): assumes the policy in the President's 1985 Budget of paying mortgagors' claims rather than acquiring properties at foreclosure.

Costs resulting from the increase in the manufactured home loan guaranty from $20,000 to $22,000 would total less than $100,000 per fiscal year.

Accordingly, the Veterans Administration opposes enactment of S. 2451, with the exception of paragraph (2) of the first section of the bill that increases the grant under 38 U.S.C. § 802(b) which we favor.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this report to the Congress from the standpoint of the Administration's program.

Sincerely,

Everett Alvarez / Deputy Administrator - For

HARRY N. WALTERS
Administrator

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

JUL 16 1984

Honorable Alan K. Simpson
Chairman
Committee on Veterans' Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This is in response to your request for the views of this Office on S. 2451, a bill "To amend title 38, United States Code, to increase the maximum amounts of the Veterans' Administration's specially adapted housing assistance grants provided to certain severely, service-connected disabled veterans and the maximum amounts of Veterans' Administration home loan guaranties."

In its June 18, 1984, report to your Committee on S. 2451, the Veterans' Administration (VA) explains its reasons for opposing the bill. The VA does favor the provision in section 1(2) of the bill to increase the maximum special housing grant from $5,000 to $6,000 to assist veterans who are blind or have lost the use of both hands to have adjustments made to their homes.

The Office of Management and Budget concurs in the views expressed by the VA in its report and, accordingly, opposes enactment of S. 2451, except for section 1(2).

Sincerely,

James M. Frey
James M. Frey
Assistant Director for
Legislative Reference

**Office of the Administrator of Veterans Affairs**
Washington DC 20420

**Veterans Administration**

AUGUST 27 1984

Honorable Alan K. Simpson
Chairman, Committee on
Veterans' Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

On June 15, 1984, you requested our views and estimate of costs of 3 bills pending before your Committee; i.e., Senate bills 2736, 2737 and 2760.

The Deputy Chief Benefits Director presented a detailed statement of our positions on these bills when he testified before the Committee on June 27. A copy of the prepared statement is enclosed.

VA estimates the five-year costs of the 4.7 percent increase in disability compensation and DIC rates called for in S. 2736 would be:

| FY | Costs (Millions) |
|---|---|
| 1985 | $396.4 |
| 1986 | 476.5 |
| 1987 | 478.3 |
| 1988 | 480.0 |
| 1989 | 481.7 |

Title III of the bill authorizes VA to make payments at accordingly higher or lower rates if the December 1, 1984 increase in Social Security benefits is not 4.7%. If such an adjustment becomes necessary, there of course would be correspondingly greater or lesser associated costs.

Our estimate of costs of enactment of S. 2737, providing a 10 percent increase in rates of subsistence and educational assistance allowances, are as follows:

| FY | Affected Trainees | Benefits Costs ($000) |
|---|---|---|
| 1985 | 568,100 | $120,200 |
| 1986 | 462,300 | 99,200 |
| 1987 | 389,600 | 83,900 |
| 1988 | 321,900 | 69,600 |
| 1989 | 267,000 | 58,300 |
| | | $431,200 |

Regarding S. 2760, based on recent trends of $7 to $9 million per month in obligations, and barring significant increases in this rate, there now appear to be sufficient resources to accommodate a 2 month extension in both the application and training-commencement deadlines under the Emergency Veterans' Job Training Act of 1983 (Pub. L. No. 98-77).

Advice has been received from the Office of Management and Budget that there is no objection to the presentation of this report on S. 2736, 2737 and 2760 from the standpoint of the Administration's program.

Sincerely,

Everett Alvarez Jr.
HARRY N. WALTERS Deputy Administrator • For
Administrator

Enclosure

# STATEMENT OF
# DOROTHY L. STARBUCK,
# CHIEF BENEFITS DIRECTOR
# BEFORE THE
# SENATE COMMITTEE ON VETERANS' AFFAIRS

June 27, 1984

Good morning, Mr. Chairman. I am very pleased to be here this morning to discuss the Administration's views on the compensation cost-of-living increase and other bills on the agenda.

Mr. Chairman, the Veterans Administration strongly supports a cost-of-living increase in disability and dependency and indemnity compensation rates effective April 1, 1985. This date would be one year after the most recent increase in these benefits. Our support is consistent with our previous recommendations intended to offset the erosion in the purchasing power of these benefits caused by inflation. Our proposal is for an increase using the same percentage as will be applied to Social Security and VA pension rates effective December 1, 1984.

When the President's budget went forward in January, we anticipated the COLA percentage to be 4.3 percent. Since then, it has been revised downward to an estimated 4.1 percent. The actual percentage will be determined by the Social Security Administration, in accordance with a revised computation method, not later than November 1, 1984.

Mr. Chairman, title I of S. 2736 would increase, by 4.7 percent, the basic compensation rates as well as the higher rates for certain specified disabilities. This title would increase, by the same percentage, the rates of additional compensation for dependents and the annual clothing allowance. Title II would increase DIC rates for surviving spouses and children, also by 4.7 percent. To enable the cost-of-living adjustment to be made at the same percentage as for Social Security-VA pension benefits, title III is intended to provide non-discretionary authority to the VA to adjust the percentage of increase upward or downward, as necessary, with publication of the adjusted rates in the Federal Register. The effective date for these increases would be December 1, 1984. As the most recent increase became effective April 1, 1984, this would have the effect of giving compensation and DIC recipients a dual increase during 1984--a 3.5 percent increase in April and a further increase in December.

Mr. Chairman, from 1976 to 1982, compensation COLA's were made effective on October 1. Beginning in 1979, the COLA percentage was made identical to the Social Security-VA pension percentage effective the previous June 1. The Administration supported this policy. Because of the need for legislative savings last year, the compensation COLA was deferred to April 1 of this year. This was a one-time deferral consistent with the changeover of the Social Security-VA pension COLA effective date to a calendar year basis. We explained last year our belief that future compensation COLA's should be effective on April 1. Our experience last year has taught us that, in these times of escalating federal deficits, veterans are prepared to share the burdens of cost-saving measures, provided they are fairly distributed. We do not believe veterans or survivors would ask to be singled out to receive favored treatment by being granted a dual increase this year. S. 2736 would, in effect, void much of the savings realized from last year's deferral. Hence, we cannot support the effective date in this measure.

As a technical matter we observe that title III is drafted in a deficient manner. As currently drafted, it appears to authorize the VA to increase the dollar amounts in section 314 of title 38. This would not be legally possible. We suggest redrafting this provision to authorize the VA to make payment at the adjusted rates published in the Federal Register; the amended rates should be allowed to take effect unless superseded by the adjusted published rates. With respect to Federal Register publication, we suggest that it would not be necessary to publish the "protected" compensation rates, as would be required by S. 2736; the object to be attained by publication could be satisfied by an appropriate reference, as is traditionally done by legislation.

Mr. Chairman, the fiscal year 1985 cost of a 4.1 percent increase, effective April 1, 1985, would be $197.4 million. Making this increase effective on December 1, 1984, would cost an additional $131.6 million. The fiscal year 1985 cost of S. 2736 would be $396 million, if the 4.7 percent estimate is borne out.

Mr. Chairman, on April 24 we submitted a draft compensation COLA measure to Congress. You have asked us to comment on two provisions contained therein. First, we would propose to assist those institutionalized veterans subject to the $1,500 estate limitation. This limitation applies to an incompetent veteran institutionalized at Government expense who has no immediate family. If the veteran's estate exceeds $1,500, further payments of compensation or pension are withheld until the estate is reduced to $500. The purpose is to prevent the accumulation of monies not needed by the veteran and likely to descend, upon the veteran's death, to remote heirs or to escheat.

The value of the veteran's home is, of course, part of his or her estate. If the veteran's compensation or pension payments were earmarked for home mortgage and other property-related payments, the veteran may be forced into default once withholding begins. We know of several cases in which veterans affected by the $1,500 limitation were homeless upon discharge from the hospital. Under our proposal, the value of the veteran's home would be excluded in the estate determination, except in cases where there is no reasonable probability of the veteran's eventual discharge from the institution. We recognize that this provision would result in some added compensation costs, but we have no data at present on which to base an estimate.

Second, we propose to discontinue "school child" benefits effective the date of last attendance. Currently, these benefits are discontinued effective the end of the month during which the date of last attendance occurs. Our proposal is intended to bring these discontinuances in line with current provisions discontinuing children's benefits as of the date the child turns 18. This proposal would result in benefits savings of less than $1 million in any fiscal year.

We observe that our draft bill would extend authority to operate a Regional Office in the Philippines to 1989. This authority is currently due to expire in 1985. We urge your consideration of this proposal. Our ability to serve effectively the tens of thousands of Philippine veterans--both Commonwealth Army veterans and U.S. Armed Forces veterans--would be greatly hampered without the expertise and cultural background of our VA employees in the Manila Regional Office. We suggest that allowing this authority to expire would not prove cost-effective over the long term.

Mr. Chairman, the next measure on the agenda is S. 2759, which would establish a "trial work period" for service-disabled veterans rated as totally disabled by reason of individual unemployability (IU). I will make some preliminary observations, and we will provide the Committee with a full report of our views on the measure at a later date.

Under our regulations, a veteran whose service-connected disability is rated from 60 to 90 percent is granted a total rating if the disability, considered together with the veteran's education and work history, renders the veteran unemployable. S. 2759 is intended to remove a supposed disincentive to an IU veteran's rehabilitation and re-employment by providing that an IU veteran's gainful employment for up to 9 months--which need not be consecutive--shall be disregarded in determining whether the IU rating should be continued. This concept of a trial work period is borrowed from the Social Security Act, specifically section 222(c).

We cannot draw a parallel with Social Security Disability Insurance (SSDI). Regained employability under SSDI results in termination of benefits, and the trial work period (which can last for an additional 15 months after the 9 months) is intended to prevent unjust terminations. IU veterans who regain employability do not have benefits terminated; they are reduced to rates commensurate with their degrees of disability. A trial work concept is built into our system.

We strongly encourage all veterans in receipt of compensation to undertake vocational rehabilitation. We do not terminate the IU rating if the veteran engages in marginal employment or "trial work," and we do not immediately reduce benefits when the veteran obtains full employment. Any disincentive to regained employability lies in the nature of the IU veteran's service-connected disabilty rather than the fear of loss of benefits.

Finally, Mr. Chairman, I would note that, based on our review of IU cases, we believe a large number of our IU veterans are protected against loss of the rating by section 110 of title 38. Of the remainder, we believe most are veterans in their middle years or beyond for whom the possibility of even "trial work" is remote. While we cannot estimate the impact of S. 2759, if enacted, with any certainty, one can validly question whether it would have a significant effect in encouraging IU veterans toward restored employability.

Mr. Chairman, I would like to turn now to S. 2267, a bill that would increase to $4,840 the maximum amount of assistance we may extend to certain severely disabled veterans for the purchase of an automobile. To qualify for this benefit, the service-disabled veteran must have suffered the loss or loss of use of one or both hands or feet or blindness to a specified degree.

The current maximum is $4,400. Since this benefit was last increased in 1981, automobile costs have increased considerably. In 1983 the average cost for a new car was almost 18 percent higher than 1981, according to the Department of Commerce.

An increase in the statutory maximum is certainly justifiable, and on May 1, before the House Veterans' Affairs Committee, we testified in favor of H.R. 4890, which would provide for an increase to $5,000. We prefer this increase to the increase that would be provided by S. 2267.

Mr. Chairman, you also asked that we provide you with our views on S. 2268. This bill would extend the authority to make veteran's readjustment appointments, known as "VRA" appointments, in the civil service, for Vietnam-era and disabled veterans. We strongly support such an extension. This authority has been most beneficial. It has led to successful careers for many disabled and Vietnam-era veterans who, when provided the opportunity, have proven to be high-quality employees. Moreover, the Veterans Administration has been one of the leading users of this authority. Over one-third of all VRA appointments since the inception of the authority have been made by VA. Extending this authority would allow the Veterans Administration and other Federal agencies to reach many more Vietnam-era and disabled veterans who need only the opportunity to prove their ability to overcome the employment barriers which remain, years after the conclusion of the Vietnam era. It is noteworthy that VRA appointments are a way of helping to address unemployment among veterans without significant costs to the Government.

In addition to extending VRA authority, the VA favors improving it as provided for by the OPM bill submitted to Congress on February 24, 1984. In particular, we favor (1) eliminating the current prohibition against granting appointments to non-disabled veterans under this authority if they have had over 14 years of education, (2) increasing the maximum grade level for appointments from GS-7 to GS-9, and (3) providing limited appeal rights to appointees who are terminated during their first year of employment. These improvements would make the VRA authority more flexible.

Mr. Chairman, S. 2451 would increase the VA loan guaranty for real estate loans under section 1810 of title 38 from $27,500 to $35,000; the guaranty on manufactured home loans under section 1819 from $20,000 to $22,000; the Specially Adapted Housing Grant from $32,500 to $38,000; and increase the maximum housing grant for veterans who are blind or have lost or lost the use of both hands from $5,000 to $6,000.

The average guaranteed home loan under section 1810 in Fiscal Year 1983 was $62,127. The average guaranty for these loans would be 44.26 percent.

The VA guaranty is intended to provide the lender the protection provided by a down payment on a conventional home loan. The guaranty protection of over 44 percent on the average VA home loan in the last fiscal year is considerably greater than the 20 to 25 percent down payment protection normally obtained on conventional loans. Experience shows, Mr. Chairman, that the secondary market normally demands 25 percent protection on Government backed loans. Thus, the current $27,500 guaranty would support a loan of $110,000, far in excess of the average VA home loan amount. Accordingly, we oppose increasing the VA loan guaranty amount at this time.

With respect to manufactured home loans under section 1819, the VA's current guaranty is limited to 50 percent of the loan amount up to a maximum guaranty of $20,000. Therefore, a loan would need to exceed $40,000 before the lender would receive less than the full 50 percent guaranty protection contemplated by the statute. In Fiscal Year 1983, the average VA manufactured home loan was $21,020. Accordingly, Mr. Chairman, we oppose increasing the VA loan guaranty amount for manufactured housing.

Mr. Chairman, S. 2451 would also increase available VA Specially Adapted Housing Grants. First, it would increase the traditional Specially Adapted Housing Grant from $32,500 to $38,000. The current law provides that the traditional Specially Adapted Housing Grant authorized under 38 U.S.C. § 802(a) cannot exceed 50 percent of the cost to the veteran of the housing unit and land on which it is located up to the maximum. In 1983 the average grant provided a veteran with 37 percent of the funds necessary to obtain a specially adapted house. Therefore, in view of the amount of the existing grant and the stabilization of the economy, an increase in the Specially Adapted Housing Grant would not be warranted at this time.

Mr. Chairman, the special $5,000 grant program for veterans who are blind or have lost or lost the use of both hands was enacted on October 1, 1980. Since implementation there have been 454 grants to blind veterans averaging $4,692 each and 23 grants to veterans who have lost or lost the use of both hands averaging $4,306 each. There have been, however, a few instances where the $5,000 grant was not adequate to meet the needs of these severely disabled veterans. As the instances are few and the increase to $6,000 would only involve a slight increase, the cost of such an increase in grant payments would be minimal. Accordingly, we favor the increase in the maximum for this special grant from $5,000 to $6,000.

Next, I would like to discuss S. 2737, which would authorize a 10 percent increase, effective October 1, 1984, in subsistence and educational assistance allowances payable, respectively, under the VA's vocational rehabilitation and education programs.

We certainly favor an increase in the rates of subsistence and educational assistance allowances. The Administration has proposed enactment of a 15 percent increase, effective January 1, 1985, which we believe is justified in light of the increases in the cost of living, as well as in tuition and other educational expenses, which have occurred since the rates were last adjusted. Accordingly, since an increase in the rates is warranted, the Administration would support any increase up to the level contained in the President's Budget.

Chapter 31 subsistence allowances were last increased by Public Law 96-466, effective October 1, 1980, and totaled approximately 17 percent. The same law provided a 2-step 10 percent boost in GI Bill educational assistance allowances, 5 percent of which became effective on October 1, 1980, and the second 5 percent, on January 1, 1981.

We note that figures published by the National Center for Education Statistics, U.S. Department of Education, disclose that there has been an acceleration in the overall cost of education in recent years. These NCES data show that the total cost of tuition, fees, room and board for all public schools rose by 33.3 percent from shool year 1980-81 through school year 1983-84, and that such educational costs increased by 37.9 percent at all private schools during the same period.

The NCES figures are substantiated by similar statistics published by the American Council on Education and the College Boards. Forecasts made by representatives of the educational community indicate there will be another 8 percent increase in these costs by the next school year.

It should be emphasized that the statistics I have cited relate only to the cost of tuition, fees, room and board. Unfortunately, we do not have any similar statistics for other educational costs such as books, supplies and equipment which the veteran must pay. It can only be assumed that these costs have also increased, and will continue to do so.

This demonstrates clearly that all costs of education have sharply increased in recent years, and very likely will continue to rise in the years immediately ahead. Accordingly, in our view, a 15 percent across-the-board increase, rather than the 10 percent increase provided by S. 2737, would be more desirable to assist veterans in defraying these increasing costs.

We also believe that increases are warranted in the reporting fees payable to educational institutions and certain training establishments under chapter 36.

Under current law, the reporting fee is computed at the rate of $7 for each eligible individual enrolled in the institution, generally as of October 31 of the reporting year, or at the rate of $11 for each such eligible individual to whom the institution delivered an advance payment check. S. 2737 would increase the basic reporting fee payable to $9 and increase the fee for advance pay processing to $13. The Administration, however, has proposed enactment of legislation which would increase these fees to $11 and $15, respectively.

It has been over 6 years since the reporting fee rates were last increased (from $5 and $6, respectively, to the present rates, by Pub. L. No. 95-202). Educational institutions throughout the country have complained that current payments do not allow them to maintain adequate recordkeeping practices concerning eligible veterans or eligible persons. Schools have also indicated that advance-payment and standards-of-progress reporting requirements have further increased their administrative costs.

We believe the Administration's proposed increase in the reporting fee rates is justified in light of the continuing increases in administrative costs encountered by these schools, and will enhance their recordkeeping and reporting performance.

Finally, S. 2737 would also authorize a 10 percent increase in the rate used to calculate the aggregate of amounts any veteran or eligible person may borrow under subchapter III of chapter 36. Notwithstanding such increase, the total amount a veteran or person could borrow in any 1 regular academic year would remain $2,500.

The VA's education loan program has experienced an excessively high default rate resulting in large overpayments and necessitating, in many instances, increased debt collection activities and costs. In recent years, Congress has acted to correct this problem by barring the VA from making these loans to most veterans. As a final step, the Administration has now proposed repeal of the VA's authority to make education loans under chapter 36. Thus, we oppose any legislation that could result in further potential increases in defaults and overpayments.

Mr. Chairman, we have also been asked to comment on a draft proposed measure which would amend the Emergency Veterans' Job Training Act of 1983 (Public Law 98-77) to (1) extend the operative period of a Certificate of Eligibility furnished to a veteran, from 60 days after the date furnished, to 90 days after such date; (2) provide that funds appropriated to carry out the purposes of the Act will remain available for an additional year, until September 30, 1987; and (3) extend both the last date upon which an eligible veteran may apply for a program of job training under the Act, from November 29, 1984, to May 31, 1985, and the latest date a veteran may begin participation in an approved training program, from March 1 to September 1, 1985.

We favor extending the life of a Certificate of Eligibility to 90 days since it would afford an eligible veteran additional time in which to receive employment counseling and be placed in an approved job training program. It could also reduce the need for, and frequency of, processing requests for certificate renewal.

However, we believe that a 2-month extension of both the application and training commencement deadlines would be reasonable and consistent with current projections. We note that the job training program is enjoying improved success, and a 2-month extension is all we need to make up for the program's slow start. If our current estimates prove to be incorrect, we would then support a further time-limited extension of both the application and training commencement deadlines. Further, this would be accomplished without affecting current funding levels.

Accordingly, subject to the change I have noted, we would favor enactment of this proposed legislation.

Mr. Chairman, that concludes my formal presentation. I would be pleased to respond to any questions you or the other members of the Committee may have.

## CHANGES IN EXISTING LAW MADE BY S. 2736 AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

# TITLE 38—UNITED STATES CODE

* * * * * * *

# PART I—GENERAL PROVISIONS

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## CHAPTER 1—GENERAL

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### § 101. Definitions

For the purposes for this title—

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(29) The term "Vietnam era" means *(A)* the period beginning *on* August 5, 1964, and ending on May 7, [1975.] *1975, and (B) the period beginning on February 21, 1961, and ending on May 7, 1975, in the case of a veteran who served in the Republic of Vietnam during such period.*

### § 103. Special provisions relating to marriages

(a) Whenever, in the consideration of any claim filed by [a woman as the widow] *an individual as the surviving spouse* of a veteran for gratuitous death benefits under laws administered by the Veterans' Administration, it is established by evidence satisfactory to the Administrator that [she] *such individual,* without knowledge of any legal impediment, entered into a marriage with such veteran which, but for a legal impediment, would have been valid, and thereafter cohabited with [him] *such veteran* for one year or more immediately before [his] *such veteran's* death, or for any period of time if a child was born of the purported marriage or was born to them before such marriage, the purported marriage shall be deemed to be a valid marriage, but only if no claim has been filed by a legal [widow] *surviving spouse* of such veteran who is found to be entitled to such benefits. No duplicate payments shall be made by virtue of this subsection.

(b) Where a [widow] *surviving spouse* has been legally married to a veteran more than once, the date of original marriage will be used in determining whether the statutory requirement as to date of marriage has been met.

(c) In determining whether or not [a woman is or was the wife] *an individual is or was the spouse* of a veteran, their marriage shall be proven as valid for the purposes of all laws administered by the Veterans' Administration according to the law of the place where the parties resided at the time of the marriage or the law of the place where the parties resided when the right to benefits accrued.

(d)(1) The remarriage of the [widow of a veteran shall not bar the furnishing of benefits to her as the widow] *surviving spouse of a veteran shall not bar the furnishing of benefits to that individual as the surviving spouse* of the veteran if the remarriage is void, or has been annulled by a court with basic authority to render annulment decrees unless the Veterans' Administration determines that the annulment was secured through fraud by either party or collusion.

(2) The remarriage of the [widow of a veteran shall not bar the furnishing of benefits to her as the widow] *surviving spouse of a veteran shall not bar the furnishing of benefits to that individual as the surviving spouse* of the veteran if the remarriage has been terminated by death or has been dissolved by a court with basic authority to render divorce decrees unless the Veterans' Administration determines that the divorce was secured through fraud by the widow or collusion.

(3) If a [widow ceases living with another man and holding herself out openly to the public as his wife, the bar to granting her benefits as the widow] *surviving spouse of a veteran ceases living with another individual and holding out to the public that such surviving spouse is the spouse of such individual, the bar to granting such serviving spouse benefits as the surviving spouse* of the veteran shall not apply.

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# PART II—GENERAL BENEFITS

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## CHAPTER 11—COMPENSATION FOR SERVICE-CONNECTED DISABILITY OR DEATH

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### SUBCHAPTER VI—GENERAL COMPENSATION PROVISIONS

351. Benefits for persons disabled by treatment or vocational rehabilitation.
352. Persons heretofore having a compensable status.
353. Aggravation.
354. Consideration to be accorded time, place, and circumstances of service.
355. Authority for schedule for rating disabilities.
357. Combination of certain ratings.
358. Disappearance.
359. Protection of service connection.
360. Special consideration for certain cases of blindness or bilateral kidney involvement or bilateral deafness.
361. Payment of disability compensation in disability severance cases.
362. Clothing allowance.
*363. Trial period of work for certain veterans with total disability ratings.*
*364. Vocational rehabilitation for certain veterans with total disability ratings.*

* * * * * * *

## Subchapter II—Wartime Disability Compensation

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### § 314. Rates of wartime disability compensation

For the purposes of section 310 of this title—

(a) if and while the disability is rated 10 percent the monthly compensation shall be [$64] *$67*;

(b) if and while the disability is rated 20 percent the monthly compensation shall be [$118] *$124*;

(c) if and while the disability is rated 30 percent the monthly compensation shall be [$179] *$187*;

(d) if and while the disability is rated 40 percent the monthly compensation shall be [$258] *$270*;

(e) if and while the disability is rated 50 percent the monthly compensation shall be [$364] *$381*;

(f) if and while the disability is rated 60 percent the monthly compensation shall be [$459] *$481*;

(g) if and while the disability is rated 70 percent the monthly compensation shall be [$579] *$606*;

(h) if and while the disability is rated 80 percent the monthly compensation shall be [$671] *$703*;

(i) if and while the disability is rated 90 percent the monthly compensation shall be [$755] *$790*;

(j) if and while the disability is rated as total the monthly compensation shall be [$1,255] *$1,314*;

(k) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of one or more creative organs, or one foot, or one hand, or both buttocks, or blindness of one eye, having only light perception, or has suffered complete organic aphonia with constant inability to communicate by speech, or deafness of both ears, having absence of air and bone conduction, the rate of compensation therefor shall be $62 per month for each such loss or loss of use independent of any other compensation provided in subsections (a) through (j) or subsection (s) of this section but in no event to exceed [$1,559] *$1,632* per month; and in the event the veteran has suffered one or more of the disabilities heretofore specified in this subsection, in addition to the requirement for any of the rates specified in subsections (l) through (n) of this section, the rate of compensation shall be increased by $62 per month for each such loss or loss of use, but in no event to exceed [$2,185] *$2,288* per month;

(l) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of both feet, or of one hand and one foot, or is blind in both eyes, with 5/200 visual acuity or less, or is permanently bedridden or so helpless as to be in need of regular aid and attendance, the monthly compensation shall be [$1,559] *$1,632*;

(m) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of both hands, or of both legs at a level, or with complications, preventing natural knee action with prostheses in place, or of one arm and one leg at levels, or with complications, preventing natural elbow and knee action with prostheses in place, or has suffered blindness in both eyes, having only light perception, or has suffered blindness in both eyes, rendering such veteran so helpless as to be in need of regular aid and attendance, the monthly compensation shall be [$1,719] *$1,800*;

(n) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of both arms at levels, or with complications, preventing natural elbow action with prostheses in place, has suffered the anatomical loss of both legs so near the hip as to prevent the use of prosthetic appliances, or has suffered the anatomical loss of one arm and one leg so near the shoulder and hip as to prevent the use of prosthetic appliances, or has suffered the anatomical loss of both eyes, or has suffered blindness without light perception in both eyes, the monthly compensation shall be [$1,954] *$2,046*;

(o) if the veteran, as the result of service-connected disability, has suffered disability under conditions which would entitle such veteran to two or more of the rates provided in one or more subsections (l) through (n) of this section, no condition being considered twice in the determination, or if the veteran has suffered bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at 60 percent or more disabling and the veteran has also suffered service-connected total blindness with 5/200 visual acuity or less, or if the veteran has suffered service-connected total deafness in one ear or bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at 40 percent or more disabling and the veteran has also suffered service-connected blindness having only light perception or less, or if the veteran has suffered the anatomical loss of both arms so near the shoulder as to prevent the use of prosthetic appliances, the monthly compensation shall be [$2,185] *$2,288*;

(p) in the event the veteran's service-connected disabilities exceed the requirements for any of the rates prescribed in this section, the Administrator may allow the next higher rate or an intermediate rate, but in no event in excess of [$2,185] *$2,288*. In the event the veteran has suffered service-connected blindness, with 5/200 visual acuity or less and (1) has also suffered bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at no less than 30 percent disabling, the Administrator shall allow the next higher rate, or (2) has also suffered service-connected total deafness in one ear, or service-connected anatomical loss or loss of use of one hand or one foot, the Administrator shall allow the next intermediate rate, but in no event in excess of [$2,185] *$2,288*. In the event the veteran has suffered service-connected blindness, having only light perception or less, and has also suffered bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at 10 or 20 percent disabling, the Administrator shall allow the next intermediate rate, but in no event in excess of [$2,185] *$2,288*. In the event the veteran has suffered the anatomical loss or loss of use, or a combination of anatomical loss and loss of use, of three extremities, the Administrator shall allow the next higher rate or intermediate rate, but in no event in excess of [$2,185] *$2,288.* Any intermediate rate under this subsection shall be established at the arithmetic mean, rounded down to the nearest dollar, between the two rates concerned;

[q]

(r) Subject to section 3203(e) of this title, if any veteran, otherwise entitled to compensation authorized under subsection (o) of this section, at the maximum rate authorized under subsection (p) of this section, or at the intermediate rate authorized between the rates authorized under subsections (n) and (o) of this section and at the rate authorized under subsection (k) of this section, is in need of regular aid and attendance, then, in addition to such compensation—

(1) the veteran shall be paid a monthly aid and attendance allowance at the rate of [$938] *$982; or*

(2) if the veteran, in addition to such need for regular aid and attendance, is in need of a higher level of care, such veteran shall be paid a monthly aid and attendance allowance at the rate of [$1,397] *$1,463,* in lieu of the allowance authorized in clause (1) of this subsection, if the Administrator finds that the veteran, in the absence of the provision of such care, would require hospitalization, nursing home care, or other residential institutional care.

For the purposes of clause (2) of this subsection, need for a higher level of care shall be considered to be need for personal health-care services provided on a daily basis in the veteran's home by a person who is licensed to provide such services or who provides such services under the regular supervision of a licensed health-care professional. The existence of the need for such care shall be determined by a physician employed by the Veterans' Administration or, in areas where no such physician is available, by a physician carrying out such function under contract or fee arrangement based on an examination by such physician.

For the purposes of section 334 of this title, such allowance shall be considered as additional compensation payable for disability;

(s) If the veteran has a service-connected disability rated as total, and (1) has additional service-connected disability or disabilities independently ratable at 60 percent or more, or, (2) by reason of such veteran's service-connected disability or disabilities, is permanently housebound, then the monthly compensation shall be [$1,404] *$1,470.* For the purposes of this subsection, the requirement of "permanently housebound" will be considered to have been met when the veteran is substantially confined to such veteran's house (ward or clinical areas, if institutionalized) or immediate premises due to a service-connected disability or disabilities which it is reasonably certain will remain throughout such veteran's lifetime.

(t)(1) If the veteran (A) is entitled to receive compensation at any rate provided for under subsections (a) through (i) of this section and compensation under subsection (k) of this section, (B) has suffered the loss or loss of use of an extremity as a result of a service-connected disability ratable at 40 percent or more, and (C) has suffered the loss or loss of use of the paired extremity as a result of a non-service-connected disability, not the result of the veteran's own willful misconduct, that would be rated, if service-connected, at 40 percent or more, the monthly rate of compensation payable to such veteran shall be increased by **[**$271**]** *$284*.

(2) If a veteran described in paragraph (1) of this subsection receive any money or property of value pursuant to an award in a judicial proceeding based upon, or a settlement or compromise of, any cause of action for damages for the non-service-connected disability described in such paragraph, the increase in the rate of compensation otherwise payable under this subsection shall not be paid for any month following a month in which any such money or property is received until such time as the total of the amount of such increase that would otherwise have been payable equals the total of the amount of any such money received and the fair market value of any such property received.

### § 315. Additional compensation for dependents

Any veteran entitled to compensation at the rates provided in section 314 of this title, and whose disability is rated not less than 30 percent, shall be entitled, to additional compensation for dependents in the following monthly amounts:

(1) If and while rated totally disabled and—

(A) has a spouse but no child, **[**$77**]** *$81*;

(B) has a spouse and one or more children, **[**$128**]** *$134* plus **[**$41**]** *$43* for each child in excess of one;

(C) has a spouse but one or more children, **[**$52**]** *$54* plus **[**$41**]** *$43* for each child in excess of one;

(D) has a parent dependent upon such veteran for support, then, in addition to the above amounts, **[**$62**]** *$65* for each parent so dependent;

(E) notwithstanding the other provisions of this paragraph, the monthly payable amount on account of a spouse who is (i) a patient in a nursing home or (ii) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person, shall be **[**$139**]** *$146* for a totally disabled veteran and proportionate amounts for partially disabled veterans in accordance with paragraph (2) of this section; and

(F) notwithstanding the other provisions of this paragraph, the monthly payable amount on account of each child who has attained the age of eighteen years and who is pursuing a course of instruction at an approved educational institution shall be **[**$116**]** *$121* for a totally disabled veteran and proportionate amounts for partially disabled veterans in accordance with paragraph (2) of this section.

(2) If and while rated partially disabled, but not less than 30 percent, in an amount having the same ratio to the amount specified in paragraph (1) of this section as the degree of disability bears to total disability. The amounts payable under

this paragraph, if not a multiple of $1, shall be rounded down to the nearest dollar.

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### Subchapter VI—General Compensation Provisions

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### § 362. Clothing allowance

The Administrator under regulations which the Administrator shall prescribe, shall pay a clothing allowance of [$338] *$354* per year to each veteran who because of disability which is compensable under the provisions of this chapter, wears or uses a prosthetic or orthopedic appliance or appliances (including a wheelchair) which the Administrator determines tends to wear out or tear the clothing of such a veteran.

### *§ 363. Trial period or work for certain veterans with total disability ratings*

*(a) Subject to subsections (c) and (f) of this section, for the purposes of determining whether an unemployable veteran has regained the ability to secure or follow a substantially gainful occupation, any activity performed for remuneration or gain by such veteran (or any activity performed by such veteran that is determined by the Administrator to be activity of a type normally performed for remuneration or gain) during a period of trial work shall be deemed not to have been performed by such veteran during such period.*

*(b) If the amount of income earned by a veteran who has completed a period of trial work pursuant to subsection (a) of this section and whose compensation has been reduced is less than $300 in any month during the 12 month period beginning with the month such reduction took effect—*

*(1) such veteran's total disability rating shall be restored effective as of the first day of such month; and*

*(2) the Administrator shall review the case and determine whether the veteran continues to be an unemployable veteran.*

*In the event that, upon completion of such a review, the Administrator determines that the veteran is no longer an unemployable veteran, the effective date of the resulting reduction in the veteran's compensation shall, notwithstanding section 3012(b)(6) of this title, be fixed in accordance with the facts.*

*(c)(1) In order for a period of trial work to apply in the case of an unemployable veteran, the veteran must, not later than the thirtieth day after the date on which the veteran begins to perform activity described in subsection (a) of this section, notify the Administrator in writing that the veteran desires or intends to perform such activity or has begun to perform such activity, as the case may be, and that the veteran desires to participate in a period of trial work.*

*(2) A veteran may participate in no more than one period of trial work under this section.*

*(d) The Administrator shall make available to each unemployable veteran, whether or not such veteran is participating in a vocational rehabilitation program under chapter 31 of this title, the counseling and services described in section 1504(a)(2) and (5) of this title. Upon*

*receiving notification from an unemployable veteran under subsection (c)(1) of this section, the Administrator shall notify the veteran in writing about the availability of such counseling and services.*

*(e) For the purposes of this section:*

*(1) The term "period of trial work" means, in the case of an unemployable veteran, the 12-month period following the date on which the veteran begins to perform activity described in subsection (a) of this section in connection with the notice provided pursuant to subsection (c) of this section.*

*(2) The term "unemployable veteran" means a veteran who has a service-connected disability, or service-connected disabilities, not rated as total, but who meets the requirements for a total disability rating (other than a rating protected by the first sentence of section 110 of this title) by reason of inability to secure or follow a substantially gainful occupation as a result of such disability or disabilities.*

*(f)(1) This section shall take effect on the first day of the fifth full month following the date of the enactment of this section.*

*(2) No period of trial work shall apply in the case of a veteran unless such veteran has provided the notice required by subsection (c)(1) of this section and has performed activity described in subsection (a) of this section in at least 1 month prior to the thirty-seventh month (or the forty-ninth month, if the Administrator determines that it is in the best interests of veterans and the United States to extend such time) following the month that this section takes effect. The Administrator shall promptly notify the Committees on Veterans' Affairs of the House of Representatives and the Senate of any extension provided under the preceding sentence.*

### *§ 364. Vocational rehabilitation for certain veterans with total disability ratings*

*(a)(1) In the case of each award of a total disability rating that is made, on or after the first day of the fifth full month following the date of the enactment of this section, on the ground that the veteran is an unemployable veteran, the Administrator shall provide to the veteran, at the time that notice of the award is provided to the veteran, notice of the requirements of paragraph (2) of this subsection.*

*(2) Each unemployed veteran who has been provided with notice pursuant to paragraph (1) of this subsection shall—*

*(A) within 30 days after such notice is mailed to the veteran, submit an application for an evaluation under chapter 31 of this title, and*

*(B) if determined to be eligible for such evaluation, cooperate in the conduct of the evaluation and, if the Administrator formulates a vocational rehabilitation program for the veteran in accordance with the provisions of such chapter, pursue such program.*

*(b)(1) If the Administrator determines that a veteran has failed to comply substantially with the requirements of subsection (a) of this section and does not determine that mitigating circumstances exist, the Administrator shall—*

*(A) provide the veteran with notice that, unless the veteran resumes substantial compliance with such requirements within 60 days after the Administrator provided such notice (or such*

*longer period as the Administrator determines is the shortest period within which it is reasonably feasible for the veteran to resume compliance), the Administrator will conduct a review of the determination that the veteran is an unemployable veteran and the noncompliance shall be considered in such review; and*

*(B) unless the veteran has resumed such substantial compliance, conduct such review after such 60 days (or such longer period, if applicable) has expired.*

*(2) In the event that, upon a review conducted pursuant to paragraph (1) of this subsection, the Administrator determines that the veteran is no longer an unemployable veteran, nothing in this subsection shall preclude a subsequent award of a total disability rating to the veteran.*

*(c) For the purposes of this section, the term "unemployable veteran" has the same meaning provided in section 363(e)(2) of this title.*

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## CHAPTER 13—DEPENDENCY AND INDEMNITY COMPENSATION FOR SERVICE-CONNECTED DEATHS

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### Subchapter II—Dependency and Indemnity Compensation

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### § 411. Dependency and indemnity compensation to a surviving spouse

(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

| [Pay grade | Monthly rate | Pay grade | Monthly rate] |
|---|---|---|---|
| E-1 | $461 | W-4 | $661 |
| E-2 | 475 | O-1 | 583 |
| E-3 | 486 | O-2 | 602 |
| E-4 | 518 | O-3 | 644 |
| E-5 | 532 | O-4 | 681 |
| E-6 | 544 | O-5 | 751 |
| E-7 | 571 | O-6 | 846 |
| E-8 | 602 | O-7 | 915 |
| E-9 | [1] 629 | O-8 | 1,003 |
| W-1 | 583 | O-9 | 1,077 |
| W-2 | 607 | O-10 | [2] 1,179 |
| W-3 | 624 | | |

| *Pay grade* | *Monthly rate* | *Pay grade* | *Monthly rate* |
|---|---|---|---|
| *E-1* | *$483* | *W-4* | *$692* |
| *E-2* | *497* | *O-1* | *610* |
| *E-3* | *509* | *O-2* | *630* |
| *E-4* | *542* | *O-3* | *674* |
| *E-5* | *557* | *O-4* | *713* |
| *E-6* | *570* | *O-5* | *786* |
| *E-7* | *598* | *O-6* | *886* |
| *E-8* | *630* | *O-7* | *958* |

| | | | |
|---|---|---|---|
| *E-9* | [1] *659* | *O-8* | *1,050* |
| *W-1* | *610* | *O-9* | *1,128* |
| *W-2* | *636* | *O-10* | [2] *1,234* |
| *W-3* | *653* | | |

[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard; at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be [$678.] *$710.*

[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be [$1,265.] *$1,324.*

(b) If there is a surviving spouse with one or more children below the age of eighteen of a deceased veteran, the dependency and indemnity compensation paid monthly to the surviving spouse shall be increased by [$53] *$55* for each such child.

(c) The monthly rate of dependency and indemnity compensation payable to a surviving spouse shall be increased by [$139] *$146* if the spouse is (1) a patient in a nursing home or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.

(d) The monthly rate of dependency and indemnity compensation payable to a surviving spouse shall be increased by [$68] *$71* if the surviving spouse is, by reason of disability, permanently housebound but does not qualify for the aid and attendance allowance under subsection (c) of this section. For the purposes of this subsection, the requirement of "permanently housebound" will be considered to have been met when the surviving spouse is substantially confined to such surviving spouse's home (ward or clinical areas, if institutionalized) or immediate premises by reason of a disability or disabilities which it is reasonably certain will remain throughout such surviving spouse's lifetime.

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### §413. Dependency and indemnity compensation to children

(a) Whenever there is no surviving spouse of a deceased veteran entitled to dependency and indemnity compensation, dependency and indemnity compensation shall be paid in equal shares to the children of the deceased veteran at the following monthly rates:

(1) one child, [$233;] *$244;*

(2) two children, [$334;] *$350;*

(3) three children, [$432;] *$452;* and

(4) more than three children [$432,] *$452,* plus [$87] *$91* for each child in excess of three.

(b) If dependency and indemnity compensation has been awarded under this section to a veteran's child or children and the entitlement to dependency and indemnity compensation under this section of an additional child of that veteran who is over the age of eighteen years and who had previously been entitled to dependency and indemnity compensation under this section before becoming eighteen years of age is later reestablished effective retroactively upon determination that such child is pursuing a course of instruction at an approved educational institution, the amount payable retroactively to the additional child is the amount equal to the difference between the total of the increased award payable under this section to the children of the deceased veteran for the retroactive period and the prior total award for such purpose for that period.

### §414. Supplemental dependency and indemnity compensation to children

(a) In the case of a child entitled to dependency and indemnity compensation who has attained the age of eighteen and who, while under such age, became permanently incapable of self-support, the dependency and indemnity compensation paid monthly to such child shall be increased by **[**$139**]** *$146*.

(b) If dependency and indemnity compensation is payable monthly to a person as a "surviving spouse" and there is a child (of such person's deceased spouse) who has attained the age of eighteen and who, while under such age, became permanently incapable of self-support, dependency and indemnity compensation shall be paid monthly to each such child, concurrently with the payment of dependency and indemnity compensation to the surviving spouse, in the amount of **[**$233**]** *$244*.

(c) If dependency and indemnity compensation is payable monthly to a person as a "surviving spouse" and there is a child (of such person's deceased spouse) who has attained the age of eighteen and who, while under the age of twenty-three, is pursuing a course of instruction at an educational institution approved under section 104 of this title, dependency and indemnity compensation shall be paid monthly to each such child, concurrently with the payment of dependency and indemnity compensation to the surviving spouse, in the amount of **[**$118**]** *$124*.

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## CHAPTER 15—PENSION FOR NON-SERVICE-CONNECTED DISABILITY OR DEATH OR FOR SERVICE

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SUBCHAPTER II—VETERANS' PENSIONS

Service Pension

511. Indian War veterans.
512. Spanish-American War veterans.

Non-Service-Connected Disability Pension

521. Veterans of a period of war.
522. Net worth limitation.
523. Combination of ratings.
*524. Trial work period for pension recipients.*

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### Subchapter II—Veterans' Pensions

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### § 523. Combination of ratings

(a) The Administrator shall provide that, for the purpose of determining whether or not a veteran is permanently and totally disabled, ratings for service-connected disabilities may be combined with ratings for non-service-connected disabilities.

(b) Where a veteran, by virtue of subsection (a), is found to be entitled to a pension under section 521 of this title, and is entitled to compensation for a service-connected disability, the Administrator shall pay such veteran the greater benefit.

***§ 524. Trial work period for pension recipients***

*(a) Subject to subsections (d) and (f) of this section, for purposes of any determination of whether a veteran is permanently and totally disabled for purposes of this chapter, any activity performed for remuneration or gain by a veteran (or any activity performed by a veteran that is determined by the Administrator to be of a type normally performed for remuneration or gain) during a period of trial work shall be deemed not to have been performed by such veteran during such period.*

*(b) Notwithstanding any provision of chapter 17 of this title, in the case of a veteran whose pension under section 521 of this title is terminated by reason of income from work or training, the veteran shall retain, during the period of trial work applicable to the veteran, all eligibility for care and services under such chapter (including, as appropriate, drugs and medicines under section 612(h) of this title and special priority with respect to such care and services under section 612(i)(5) of this title) that the veteran would have if the veteran's pension had not been terminated.*

*(c)(1) Notwithstanding any provision of chapter 17 of this title, in the case of a veteran whose entitlement to pension under section 521 of this title is terminated by reason of income from work or training either during the veteran's participation in a vocational rehabilitation program under chapter 31 of this title or under a State plan approved under title I of the Rehabilitation Act of 1973 or following the veteran's completion of such a program, the veteran shall retain, until the end of the twelfth month following the termination of either the veteran's entitlement to pension or the veteran's participation in such program, whichever is later, all eligibility for care and services under such chapter 17 (including, as appropriate, drugs and medicines under section 612(h) of this title and special priority with respect to such care and services under section 612(i)(5) of this title) that the veteran would have if the veteran's pension had not been terminated.*

*(2) Notwithstanding section 503 of this title, payment of a subsistence or maintenance allowance in connection with a veteran's participation in a vocational rehabilitation program under chapter 31 of this title or under a State plan approved under title I of the Rehabilitation Act of 1973 for any month during which it is necessary for the veteran to reside away from the veteran's permanent residence in order to participate in such program shall not be included in determining, under section 503 of this title, the veteran's annual income for purposes of this chapter.*

*(d)(1) In order for a period of trial work to apply in the case of a veteran, the veteran must, not later than the thirtieth day after the date on which the veteran begins to perform activity described in subsection (a) of this section, notify the Administrator in writing that the veteran desires or intends to perform such activity or has begun to perform such activity, as the case may be, and that the veteran desires to participate in a period of trial work.*

*(2) A veteran may participate in no more than one period of trial work under this section.*

*(3) Except as provided in subsection (c)(2) of this section, no provision of this section shall result in any payment received by a veteran being excluded in determining, under section 503 of this title, the veteran's annual income for purposes of this chapter.*

*(e) For purposes of this section:*

*(1) The term "period of trial work" means the 36-month period following the date on which the veteran begins to perform activity described in subsection (a) of this section in connection with the notice provided pursuant to subsection (d)(1) of this section.*

*(2) The term "terminated by reason of income from work or training" means, with respect to disability pension paid to a veteran, terminated as a result of the veteran's receipt of earnings from activity performed for remuneration or gain, but only if the veteran's annual income from sources other than such earnings would, taken alone, not result in the termination of the veteran's disability pension.*

*(f)(1) This section shall take effect on the first day of the fifth full month after the date of the enactment of this section.*

*(2) No period of trial work shall apply in the case of a veteran unless, such veteran has provided the notice required by subsection (d)(1) of this section and has performed activity described in subsection (a) of this section in at least 1 month prior to the thirty-seventh month (or the forty-ninth month, if the Administrator determines that it is in the best interests of veterans and the United States to extend such time) following the month that this section takes effect. The Administrator shall promptly notify the Committees on Veterans' Affairs of the House of Representatives and the Senate of any extension provided under the preceding sentence.*

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## CHAPTER 17—HOSPITAL, NURSING HOME, DOMICILIARY, AND MEDICAL CARE

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### Subchapter II—Hospital, Nursing Home or Domiciliary Care and Medical Treatment

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### §618. Therapeutic and rehabilitation activities

(a) * * *

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(e) The Administrator shall prescribe regulations to ensure that the priorities set forth in section 612(i) of this title shall be applied, insofar as practicable, to participation in therapeutic and rehabilitation activities carried out under this section.

*(f) Neither a veteran's participation in an activity carried out under this section nor such veteran's receipt of remuneration as a result of such participation shall be considered as a basis for the denial or discontinuance of a total disability rating for purposes of*

*compensation or pension based on the veteran's inability to secure or follow a substantially gainful occupation as a result of disability.*

* * * * * * *

## CHAPTER 21—SPECIALLY ADAPTED HOUSING FOR DISABLED VETERANS

* * * * * * *

### § 802. Limitations on assistance furnished

(a) The assistance authorized by section 801(a) of this title shall be limited in the case of any veteran to one housing unit, and necessary land therefor, and shall be afforded under one of the following plans, at the option of the veteran but shall not exceed **[**$32,500**]** *$35,750* in any one case—

(1) where the veteran elects to construct a housing unit on land to be acquired by such veteran, the Administrator shall pay not to exceed 50 percent of the total cost to the veteran of (A) the housing unit and (B) the necessary land upon which it is to be situated;

(2) where the veteran elects to construct a housing unit on land acquired by such veteran prior to application for assistance under this chapter, the Administrator shall pay not to exceed the smaller of the following sums: (A) 50 percent of the total cost to the veteran of the housing unit and the land necessary for such housing unit, or (B) 50 percent of the cost to the veteran of the housing unit plus the full amount of the unpaid balance, if any, of the cost to the veteran of the land necessary for such housing unit;

(3) where the veteran elects to remodel a dwelling which is not adapted to the requirements of such veteran's disability, acquired by such veteran prior to application for assistance under this chapter, the Administrator shall pay not to exceed (A) the cost to the veteran of such remodeling; or (B) 50 percent of the cost to the veteran of such remodeling; plus the smaller of the following sums: (i) 50 percent of the cost to the veteran of such dwelling and the necessary land upon which it is situated, or (ii) the full amount of the unpaid balance, if any, of the cost to the veteran of such dwelling and the necessary land upon which it is situated; and

(4) where the veteran has acquired a suitable housing unit, the Administrator shall pay not to exceed the smaller of the following sums: (A) 50 percent of the cost to the veteran of such housing unit and the necessary land upon which it is situated, or (B) the full amount of the unpaid balance, if any, of the cost to the veteran of such housing unit and the necessary land upon which it is situated.

(b) Except as provided in section 804(b) of this title, the assistance authorized by section 801(b) of this title shall be limited to the lesser of—

(1) the actual cost of the adaptations determined by the Administrator under such section 801(b) to be reasonably necessary, or

(2) [$5,000.] *$5,500.*

* * * * * * *

# PART III—READJUSTMENT AND RELATED BENEFITS

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## CHAPTER 31—TRAINING AND REHABILITATION FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES

* * * * * * *

### § 1503. Periods of eligibility

(a) Except as provided in subsection (b), (c), or (d) of this section, a rehabilitation program may not be afforded to a veteran under this chapter after the end of the twelve-year period beginning on the date of such veteran's discharge or release from active military, naval, or air service.

(b)(1) *(A)* In any case in which the Administrator determines that a veteran has been prevented from participating in a vocational rehabilitation program under this chapter within the period of eligibility prescribed in subsection (a) of this section because a medical condition of such veteran made it infeasible for such veteran to participate in such a program, the twelve-year period of eligibility shall not run during the period of time that such veteran was so prevented from participating in such a program, and such period of eligibility shall again begin to run on the first day following such veteran's recovery from such condition on which it is reasonably feasible, as determined under regulations which the Administrator shall prescribe, for such veteran to participate in such a program.

*(B)(i) Subject to clauses (iii) and (iv) of this subparagraph, in any case in which the Administrator determines that a veteran with qualifying service (as described in clause (iii) of this subpargraph) has been prevented from participating in a vocational rehabilitation program under this chapter within the period of eligibility prescribed in subsection (a) of this section because a condition described in clause (ii) of this subparagraph made it infeasible for such veteran to participate in such a program, the 12-year period of eligibility shall not run during the period of time that such veteran was so prevented from participating in such a program.*

*(ii) The condition referred to in clause (i) of this subparagraph is an alcohol or drug dependence or abuse condition of a veteran in a case in which it is determined, under regulations which the Administrator shall prescribe, that—*

*(I) such veteran has received recognized treatment for such condition or has participated in a program of rehabilitation for such condition, and*

*(II) such condition is sufficiently under control to enable such veteran to participate in a vocational rehabilitation program under this chapter.*

*(iii) Subject to the succeeding sentence, qualifying service referred to in clause (i) of this subparagraph is active military, naval, or air*

*service from which the veteran was discharged or released under conditions other than dishonorable. In any case in which the veteran received a discharge other than an honorable discharge, a determination as to whether the veteran was discharged under conditions other than dishonorable shall be made by the Administrator on the basis of a review of the veteran's service record.*

*(iv) Clause (i) of this subparagraph applies only if the veteran has filed an application under this paragraph within 1 year after (I) the last date of the period of eligibility otherwise applicable under this section, (II) the termination of the last period of such treatment or such program of rehabilitation, or (III) the date on which final regulations prescribed pursuant to clause (i) of the subparagraph are published in the Federal Register, whichever is the latest.*

*(v) The period of time during which, pursuant to clause (i) of this subparagraph, the 12-year period of eligibility does not run shall be limited to the period during which the veteran was receiving treatment or the period of time the veteran was participating in a program of rehabilitation for such condition plus such additional length of time as the veteran demonstrates, to the satisfaction of the Administrator, that the veteran was prevented by such condition from participating in a vocational rehabilitation program under this chapter, but in no event shall such period of time be more than 4 years.*

*(vi) When, pursuant to clause (i) of this subparagraph, a period of eligibility does not run for a period of time, such period of eligibility shall again begin to run on the first day, following such condition becoming sufficiently under control to enable such veteran to participate in such a program of vocational rehabilitation, on which it is reasonably feasible, as determined under such regulations, for such veteran to participate in such a program.*

(2) In any case in which the Administrator determines that a veteran has been prevented from participating in a vocational rehabilitation program under this chapter within the period of eligibility prescribed in subsection (a) of this section because—

* * * * * * *

**§ 1508. Allowances**

(a)(1) * * *

* * * * * * *

(b) Except as otherwise provided in this section, the Administrator shall determine the subsistence allowance to be paid to a veteran under this chapter in accordance with the following table, which shall be the monthly amount shown in column II, III, IV, or V (whichever is applicable as determined by the veteran's dependency status) opposite the appropriate type of program being pursued as specified in column I:

[

| Column I | Column II | Column III | Column IV | Column V |
|---|---|---|---|---|
| Type of program | No dependents | One dependent | Two dependents | More than two dependents |
| | | | | The amount in column IV, plus the following for each dependent in excess of two: |
| Institutional training | | | | |
| Full-time | $282 | $349 | $411 | $30 |
| Three quarter time. | 212 | 262 | 308 | 23 |
| Half-time | 141 | 175 | 206 | 15 |
| Farm cooperative, apprentice, or other on-job training: | | | | |
| Full time | 246 | 297 | 343 | 22 |
| Extended evaluation: | | | | |
| Full-time | 282 | 349 | 411 | 30 |
| Independent living training: | | | | |
| Full-time | 282 | 349 | 411 | 30 |
| Three quarter time. | 212 | 262 | 308 | 23 |
| Half-time | 141 | 175 | 206 | 15 |

]

| *Column I* | *Column II* | *Column III* | *Column IV* | *Column V* |
|---|---|---|---|---|
| *Type of program* | *No dependents* | *One dependent* | *Two dependents* | *More than two dependents* |
| | | | | *The amount in column IV, plus the following for each dependent in excess of two:* |
| *Institutional training:* | | | | |
| *Full-time* | *$310* | *$384* | *$452* | *$33* |
| *Three quarter time.* | *233* | *288* | *339* | *25* |
| *Half-time* | *155* | *193* | *227* | *17* |
| *Farm cooperative, apprentice, or other on-job training:* | | | | |
| *Full time* | *271* | *327* | *377* | *24* |
| *Extended evaluation:* | | | | |
| *Full-time* | *310* | *384* | *452* | *33* |
| *Independent living training:* | | | | |
| *Full-time* | *310* | *384* | *452* | *33* |

| *Column I* | *Column II* | *Column III* | *Column IV* | *Column V* |
|---|---|---|---|---|
| *Type of program* | *No dependents* | *One dependent* | *Two dependents* | *More than two dependents* |
| *Three quarter time.* | *233* | *288* | *339* | *25* |
| *Half-time* .......... | *155* | *193* | *227* | *17* |

* * * * * * *

## CHAPTER 34—VETERANS' EDUCATIONAL ASSISTANCE

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### Subchapter II—Eligibility and Entitlement

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### § 1662. Time limitations for completing a program of education

Delimiting Period for Completion

(a)(1) No educational assistance shall be afforded an eligible veteran under this chapter beyond the date 10 years after the veteran's last discharge or release from active duty after January 31, 1955; except that, in the case of any eligible veteran who was prevented from initiating or completing such veteran's chosen program of education within such time period because of a physical or mental disability which was not the result of such veteran's own willful misconduct *or because of a condition (and under the circumstances) described in paragraph (4) of this subsection*, such veteran shall, upon application made within one year after (A) the last date of the delimiting period otherwise applicable under this section, (B) the termination of the period of such mental or physical disability, or (C) October 1, 1980, whichever is the latest, be granted an extension of the applicable delimiting period for such length of time *(except as provided in paragraph (4)(B)(ii) of this subsection)* as the Administrator determines, from the evidence, that such veteran was so prevented from initiating or completing such program of education. When an extension of the applicable delimiting period is granted a veteran under the preceding sentence *because of such disability*, the delimiting period with respect to such veteran will again begin running on the first day following such veteran's recovery from such disability on which it is reasonably feasible, as determined in accordance with regulations which the Administrator shall prescribe, for such veteran to initiate or resume pursuit of a program of education with educational assistance under this chapter.

(2)(A) Notwithstanding the provisions of paragraph (1) of this subsection, any veteran shall be permitted to use any of such veteran's unused entitlement under section 1661 of this title for the purposes of eligibility for an education loan, pursuant to the provisions of subchapter III of chapter 36 of this title, after the delimiting date otherwise applicable to such veteran under such paragraph (1), if such veteran was pursuing an approved program of education on a full-time basis at the time of the expiration of such veteran's eligibility.

(B) Notwithstanding any other provision of this chapter or chapter 36 of this title, any veteran whose delimiting period is extended under subparagraph (A) of this paragraph may continue to use any unused loan entitlement under this paragraph as long as the veteran continues to be enrolled on a full-time basis in pursuit of the approved program of education in which such veteran was enrolled at the time of expiration of such veteran's eligibility (i) until such entitlement is exhausted, (ii) until the expiration of two years after November 23, 1977, or the date of the expiration of the delimiting date otherwise applicable to such veteran under paragraph (1) of this subsection, whichever is later, or (iii) until such veteran has completed the approved program of education in which such veteran was enrolled at the end of the delimiting period referred to in paragraph (1) of this subsection, whichever occurs first.

(3)(A) Subject to subparagraph (C) of this paragraph and notwithstanding the provisions of paragraph (1) of this subsection, an eligible veteran who served on active duty during the Vietnam era shall be permitted to use any of such veteran's unused entitlement under section 1661 of this title for the purpose of pursuing—

(i) a program of apprenticeship or other on-job training;

(ii) a course with an approved vocational objective; or

(iii) a program of secondary education, if the veteran does not have a secondary school diploma (or an equivalency certificate).

(B) Upon completion of a program or course pursued by virtue of eligibility provided by this paragraph, the Administrator shall provide the veteran with such employment counseling as may be necessary to assist the veteran in obtaining employment consistent with the veteran's abilities, aptitudes, and interests.

(C)(i) Educational assistance shall be provided a veteran for pursuit of a program or course described in clause (i) or (ii) of subparagraph (A) of this paragraph using eligibility provided by this paragraph unless the Administrator determines, based on an examination of the veteran's employment and training history, that the veteran is not in need of such a program or course in order to obtain a reasonably stable employment situation consistent with the veteran's abilities and aptitudes. Any such determination shall be made in accordance with regulations which the Administrator shall prescribe.

(ii) Educational assistance provided a veteran for pursuit of a program described in clause (iii) of subparagraph (A) of this paragraph using eligibility provided by this paragraph shall be provided at the rate determined under section 1691(b)(2) of this title.

(D) Educational assistance may not be provided by virtue of this paragraph after December 31, 1984.

*(4)(A) A condition referred to in paragraph (1) of this subsection is an alcohol or drug dependence or abuse condition of a veteran with qualifying service (as described in subparagraph (B) of this paragraph) in a case in which it is determined, under regulations which the Administrator shall prescribe, that—*

*(i) such veteran has received recognized treatment for such condition or has participated in a program of rehabilitation for such condition, and*

*(ii) such condition is sufficiently under control to enable such veteran to pursue such veteran's chosen program of education under this chapter.*

*(B) Subject to the succeeding sentence, qualifying service referred to in subparagraph (A) of this paragraph is active military, naval, or air service from which veteran was discharged or released under conditions other than dishonorable. In any case in which the veteran received a discharge other than an honorable discharge, a determination as to whether the veteran was discharged under conditions other than dishonorable shall be made by the Administrator on the basis of a review of the veteran's service record.*

*(C)(i) Notwithstanding the provisions of paragraph (1) of this subsection, a veteran may be granted an extension of the applicable delimiting period because of such condition upon application for such extension made within 1 year after (I) the last date of the delimiting period otherwise applicable under this section, (II) the termination of the last period of such treatment or such program of rehabilitation, or (III) the date on which final regulations prescribed pursuant to subparagraph (A) of this paragraph are published in the Federal Register, whichever is the latest.*

*(ii) An extension of the applicable delimiting period because of such condition shall be limited to the period of time the veteran was receiving treatment or the period of time the veteran was participating in a program of rehabilitation for such condition plus such additional length of time as the veteran demonstrates, to the satisfaction of the Administrator, that the veteran was prevented by such condition for initiating or completing such program of education, but in no event shall the extension be for more than 4 years. When such extension is granted, the delimiting period with respect to such veteran will again begin running on the first day, following such condition becoming sufficiently under control to enable such veteran to pursue such veteran's chosen program of education under this chapter, on which it is reasonably feasible, as determined in accordance with such regulations, for such veteran to initiate or resume pursuit of a program of education with educational assistance under this chapter.*

### Correction of Discharge

(b) In the case of any eligible veteran who has been prevented, as determined by the Administrator, from completing a program of education under this chapter within the period prescribed by subsection (a), because the veteran had not met the nature of discharge requirements of this chapter before a change, correction, or modification of a discharge or dismissal made pursuant to section 1553 of title 10, the correction of the military records of the proper service department under section 1552 of title 10, or other corrective action by competent authority, then the 10-year delimiting period shall run from the date the veteran's discharge or dismissal was changed, corrected, or modified.

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## Subchapter IV—Payments to Eligible Veterans; Veteran-Student Services

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### § 1682. Computation of educational assistance allowances

(a)(1) Except as provided in subsection (b), (c), or (g) of this section, or section 1787 of this title, while pursuing a program of education under this chapter of half-time or more, each eligible veteran shall be paid the monthly educational assistance allowance set forth in column II, III, IV, or V (whichever is applicable as determined by the veteran's dependency status) opposite the applicable type of program as shown in column I:

| Column I | Column II | Column III | Column IV | Column V |
|---|---|---|---|---|
| Type of program | No dependents | One dependent | Two dependents | More than two dependents |
| | | | | The amount in column IV, plus the following for each dependent in excess of two: |
| Institutional: | | | | |
| Full-time | $342 | $407 | $464 | $29 |
| Three-quarter-time | 257 | 305 | 348 | 22 |
| Half-time | 171 | 204 | 232 | 15 |
| Cooperative | 276 | 323 | 367 | 21 |

| *Column I* | *Column II* | *Column III* | *Column IV* | *Column V* |
|---|---|---|---|---|
| *Type of program* | *No dependents* | *One dependent* | *Two dependents* | *More than two dependents* |
| | | | | *The amount in column IV, plus the following for each dependent in excess of two:* |
| *Institutional training:* | | | | |
| *Full-time* | *$376* | *$448* | *$510* | *$32* |
| *Three-quarter time* | *283* | *336* | *383* | *24* |
| *Half-time* | *188* | *224* | *255* | *17* |
| *Cooperative* | *304* | *355* | *404* | *23* |

(2) A "cooperative" program, other than a "farm cooperative" program, means a full-time program of education which consists of institutional courses and alternate phases of training in a business or industrial establishment with the training in the business or industrial establishment being strictly supplemental to the institutional portion.

(b) The educational assistance allowance of an individual pursuing a program of education—

(1) while on active duty, or

(2) on less than a half-time basis,

shall be computed at the rate of (A) the established charges for tuition and fees which the institution requires similarly circumstanced non-veterans enrolled in the same program to pay, or (B) **[**$342**]** *$376* per month for a full-time course, whichever is the lesser. An individual's entitlement shall be charged for institutional courses on the basis of the applicable monthly training time rate as determined under section 1788 of this title.

(c)(1) An eligible veteran who is enrolled in an educational institution for a "farm cooperative" program consisting of institutional agricultural courses prescheduled to fall within 44 weeks of any period of 12 consecutive months and who pursues such program on—

(A) a full-time basis (a minimum of ten clock hours per week or four hundred and forty clock hours in such year prescheduled to provide not less than eighty clock hours in any 3-month period),

(B) a three-quarter-time basis (a minimum of 7 clock hours per week), or

(C) a half-time basis (a minimum of 5 clock hours per week),

shall be eligible to receive an educational assistance allowance at the appropriate rate provided in the table in paragraph (2) of this subsection, if such eligible veteran is concurrently engaged in agricultural employment which is relevant to such institutional agricultural courses as determined under standards prescribed by the Administrator. In computing the foregoing clock hour requirements there shall be included the time involved in field trips and individual and group instruction sponsored and conducted by the educational institution through a duly authorized instructor of such institution in which the veteran is enrolled.

(2) The monthly educational assistance allowance of an eligible veteran pursuing a farm cooperative program under this chapter shall be paid as set forth in column II, III, IV, or V (whichever is applicable as determined by the veteran's dependency status) opposite the basis shown in column I:

[

| Column I | Column II | Column III | Column IV | Column V |
|---|---|---|---|---|
| Basis | No dependents | One dependent | Two dependents | More than two dependents |
|  |  |  |  | The amount in column IV, plus the following for each dependent in excess of two: |
| Full-time | $276 | $323 | $367 | $21 |
| Three-quarter-time | 207 | 242 | 275 | 16 |
| Half-time | 138 | 162 | 184 | 11 |

]

| *Column I* | *Column II* | *Column III* | *Column IV* | *Column V* |
|---|---|---|---|---|
| *Basis* | *No dependents* | *One dependent* | *Two dependents* | *More than two dependents* |
|  |  |  |  | *The amount in column IV, plus the following for each dependent in excess of two:* |
| *Full-time* | *$304* | *$355* | *$404* | *$23* |
| *Three-quarter-time* | *228* | *266* | *303* | *18* |
| *Half-time* | *152* | *178* | *202* | *12* |

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## Subchapter V—Special Assistance for the Educationally Disadvantaged

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### § 1692. Special supplementary assistance

(a) * * *

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(b) The Administrator shall pay to an eligible veteran receiving tutorial assistance pursuant to subsection (a) of this section, in addition to the educational assistance allowance provided in section 1682 of this title, the cost of such tutorial assistance in an amount not to exceed **[**$76**]** *$84* per month, for a maximum of twelve months, or until a maximum of **[**$911**]** *$1,008* is utilized, upon certification by the educational institution that—

(1) the individualized tutorial assistance is essential to correct a deficiency of the eligible veteran in a subject required as a part of, or which is prerequisite to, or which is indispensable to the satisfactory pursuit of, an approved program of education;

(2) the tutor chosen to perform such assistance is qualified and is not the eligible veteran's parent, spouse, child (whether or not married or over eighteen years of age), brother, or sister; and

(3) the charges for such assistance do not exceed the customary charges for such tutorial assistance.

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## CHAPTER 35—SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE

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### Subchapter II—Eligibility and Entitlement

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**§ 1712. Periods of eligibility [1], [2]**

(a) * * *

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(b)(1) No person made eligible by section 1701(a)(1)(B) or (D) of this title may be afforded educational assistance under this chapter beyond 10 years after whichever of the following last occurs:

(A) The date on which the Administrator first finds the spouse from whom eligibility is derived has a service-connected total disability permanent in nature.

(B) The date of death of the spouse from whom eligibility is derived who dies while a total disability evaluated as permanent in nature was in existence.[1], [2]

(C) The date on which the Administrator determines that the spouse from whom eligibility is derived died of a service-connected disability.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, in the case of any eligible person (as defined in section 1701(a)(1)(B), (C), or (D) of this title) who was prevented from initiating or completing such person's chosen program of education within such period because of a physical or mental disability which was not the result of such person's own willful misconduct *or because of a condition (and under the circumstances) described in paragraph (3)(A) of this subsection,* such person shall, upon application made within one year after (A) the last date of the delimiting period otherwise applicable under this section, (B) the termination of the period of mental or physical disability, or (C) October 1, 1980, whichever is the latest, be granted an extension of the applicable delimiting period for such length of time *(except as provided in paragraph (3)(B)(ii) of this subsection* as the Administrator deter-

mines, from the evidence, that such person was so prevented from initiating or completing such program of education. When an extension of the applicable delimiting period is granted under the exception in the preceding sentence *because of such disability,* the delimiting period will again begin running on the first day following such eligible person's recovery from such disability on which it is reasonably feasible, as determined in accordance with regulations which the Administrator shall prescribe, for such eligible person to initiate or resume pursuit of a program of education with educational assistance under this chapter.

*(3)(A) A condition referred to in paragraph (2) of this subsection is an alcohol or drug dependence or abuse condition of an eligible person in a case in which it is determined, under regulations which the Administrator shall prescribe, that—*

*(i) such person (I) has received recognized treatment for such condition, or (II) has participated in a program of rehabilitation for such condition, and*

*(ii) such condition is sufficiently under control to enable such person to pursue such person's chosen program of education under this chapter.*

*(B)(i) Notwithstanding the provisions of paragraph (2) of this subsection, an eligible person may be granted an extension of the applicable delimiting period because of such condition upon application for such extension made within 1 year after (I) the last date of the delimiting period otherwise applicable under this section, (II) the termination of the last period of such treatment or such program of rehabilitation, or (III) the date on which final regulations prescribed pursuant to subparagraph (A) of this paragraph are published in the Federal Register, whichever is the latest.*

*(ii) An extension of the applicable delimiting period because of such condition shall be limited to the period of time the eligible person was receiving treatment or the period of time such person was participating in a program of rehabilitation for such condition plus such additional length of time as such person demonstrates, to the satisfaction of the Administrator, that such person was prevented by such condition from initiating or completing such program of education, but in no event shall the extension be for more than 4 years. When such extension is granted, the delimiting period with respect to such person will again begin running on the first day, following such condition becoming sufficiently under control to enable such person to pursue such person's chosen program of education under this chapter, on which it is reasonably feasible, as determined in accordance with such regulations, for such person to initiate or resume pursuit of a program of education with educational assistance under this chapter.*

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## Subchapter IV—Payments to Eligible Persons

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### § 1732. Computation of educational assistance allowance

(a) * * *

* * * * * * *

(b) The educational assistance allowance to be paid on behalf of an eligible person who is pursuing a full-time program of education which consists of institutional courses and alternate phases of training in a business or industrial establishment with the training in the business or industrial establishment being strictly supplemental to the institutional portion, shall be computed at the rate of **[**$276**]** *$304* per month.

* * * * * * *

### § 1742. Special training allowance

(a) While the eligible person is enrolled in and pursuing a full-time course of special restorative training, the parent or guardian shall be entitled to receive on behalf of such person a special training allowance computed at the basic rate of **[**$342**]** *$376* per month. If the charges for tuition and fees applicable to any such course are more than **[**$108**]** *$119* per calendar month, the basic monthly allowance may be increased by the amount that such charges exceed **[**$108**]** *$119* a month, upon election by the parent or guardian of the eligible person to have such person's period of entitlement reduced by one day for each **[**$11.44**]** *$12.58* that the special training allowance paid exceeds the basic monthly allowance.

(b) No payments of a special training allowance shall be made for the same period for which the payment of an educational assistance allowance is made or for any period during which the training is pursued on less than a full-time basis.

(c) Full-time training for the purpose of this section shall be determined by the Administrator with respect to the capacities of the individual trainee.

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## CHAPTER 36—ADMINISTRATION OF EDUCATIONAL BENEFITS

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### Subchapter II—Miscellaneous Provisions

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### § 1784. Reports by veterans, eligible persons, and institutions; reporting fee

(a) * * *

* * * * * * *

(c) The Administrator may pay to any educational institution, or to any joint apprenticeship training committee acting as a training establishment, furnishing education or training under either this chapter or chapter 34 or 35 of this title, a reporting fee which will be in lieu of any other compensation or reimbursement for reports or certifications which such educational institution or joint apprenticeship training committee is required to submit to the Administrator by law or regulation. Such reporting fee shall be computed for each calendar year by multiplying **[**$7**]** *$9* by the number of eligible veterans or eligible persons enrolled under this chapter or chapter 34 or 35 of this title, or **[**$11**]** *$13* in the case of those eligible veterans and eligible persons whose educational assistance checks are directed in care of each institution for temporary custody and delivery and are delivered at the time of registration as provided under section 1780(d)(4) of this title, on October 31 of that year; except that the Administrator may, where it is established by such educational institution or joint apprenticeship training committee that eligible veteran plus eligible person enrollment on such date varies more than 15 percent from the peak eligible veteran enrollment plus eligible person enrollment in such educational institution or joint apprenticeship training committee during such calendar year, establish such other date as representative of the peak enrollment as may be justified for such educational institution or joint apprenticeship training committee. The reporting fee shall be paid to such educational institution or joint apprenticeship training committee as soon as feasible after the end of the calendar year for which it is applicable. No reporting fee payable to an educational institution under this subsection shall be subject to offset by the Administrator against any liability of such institution for any overpayment for which such institution may be administratively determined to be liable under section 1785 of this title unless such liability is not contested by such institution or has been upheld by a final decree of a court of appropriate jurisdiction.

* * * * * * *

### § 1786. Correspondence courses

(a)(1) * * *

* * * * * * *

(2) The period of entitlement of any veteran or spouse or surviving spouse who is pursuing any program of education exclusively by correspondence shall be charged with one month for each **[**$342**]** *$376* which is paid to the veteran or spouse or surviving spouse as an educational assistance allowance for such course.

* * * * * * *

### § 1787. Apprenticeship or other on-job training

(a) * * *

* * * * * * *

(b)(1) The monthly training assistance allowance of an eligible veteran pursuing a program described under subsection (a) shall be as follows:

| Column I | Column II | Column III | Column IV | Column V |
|---|---|---|---|---|
| Periods of training | No dependents | One dependent | Two dependents | More than two dependents |
| | | | | The amount in column IV, plus the following for each dependent in excess of two: |
| First 6 months | $249 | $279 | $305 | $13 |
| Second 6 months | 186 | 217 | 243 | 13 |
| Third 6 months | 124 | 155 | 180 | 13 |
| Fourth and any succeeding 6-month periods. | 62 | 92 | 119 | 13 |

| *Column I* | *Column II* | *Column III* | *Column IV* | *Column V* |
|---|---|---|---|---|
| *Periods of training* | *No dependents* | *One dependent* | *Two dependents* | *More than two dependents* |
| | | | | *The amount in column IV, plus the following for each dependent in excess of two:* |
| *First 6 months* | *$274* | *$307* | *$336* | *$14* |
| *Second 6 months* | *205* | *239* | *267* | *14* |
| *Third 6 months* | *136* | *171* | *198* | *14* |
| *Fourth and any succeeding 6-month periods.* | *68* | *101* | *131* | *14* |

* * * * * * *

## § 1796. Limitation on certain advertising, sales, and enrollment practices

(a) * * *

* * * * * * *

(c) The Administrator shall, pursuant to section 1794 of this title, enter into an agreement with the Federal Trade Commission to utilize, where appropriate, its services and facilities, consistent with its available resources, in carrying out investigations and making the Administrator's determinations under subsection (a) of this section. Such agreement shall provide that cases arising under subsection (a) of this section or any similar matters with respect to any of the requirements of this chapter or chapters 34 and 35 of this title shall be referred to the Federal Trade Commission which in its discretion will conduct an investigation and make preliminary findings. The findings and results of any such investigations shall be referred to the Administrator who shall take appropriate action in such cases within ninety days after such referral.

[d Not later than sixty days after the end of each fiscal year, the Administrator shall report to Congress on the nature and disposition of all cases arising under this section.]

### Subchapter III—Education Loans to Eligible Veterans and Eligible Persons

### § 1798. Eligibility for loans; amount and conditions of loans; interest rate on loans

* * * * * * *

(b) (1) * * *

* * * * * * *

(3) The aggregate of the amounts any veteran or person may borrow under this subchapter may not exceed [$342] *$376* multiplied by the number of months such veteran or person is entitled to receive educational assistance under section 1661 or subchapter II of chapter 35, respectively, of this title, but not in excess of $2,500 in any one regular academic year.

* * * * * * *

## CHAPTER 39—AUTOMOBILES AND ADAPTIVE EQUIPMENT FOR CERTAIN DISABLED VETERANS AND MEMBERS OF THE ARMED FORCES

* * * * * * *

### § 1902. Assistance for providing automobile and adaptive equipment

(a) The Administrator, under regulations which the Administrator shall prescribe, shall provide or assist in providing an automobile or other conveyance to each eligible person by paying the total purchase price of the automobile or other conveyance (including all State, local, and other taxes) or [$4,400] *$4,840,* whichever is the lesser, to the seller from whom the eligible person in purchasing under a sales agreement between the seller and the eligible person.

* * * * * * *

## CHAPTER 42—EMPLOYMENT AND TRAINING OF DISABLED AND VIETNAM ERA VETERANS

* * * * * * *

### § 2014. Employment within the Federal Government

(a) * * *

* * * * * * *

(b) (1) To further the policy stated in subsection (a) of this section, veterans of the Vietnam era shall be eligible, in accordance with regulations which the Office of Personnel Management shall prescribe, for veterans readjustment appointments, and for subsequent career-conditional appointments, under the terms and conditions specified in Executive Order Numbered 11521 (March 26, 1970), except that—

(A) such an appointment may be made up to and including the level GS-7 or its equivalent;

(B) a veteran of the Vietnam era shall be eligible for such an appointment without any time limitation with respect to eligibility for such an appointment; [and]

(C) a veteran of the Vietnam era who is entitled to disability compensation under the laws administered by the Veterans' Administration or whose discharge or release from active duty was for a disability incurred or aggravated in line of duty shall be eligible for such an appointment without regard to the number of years of education completed by such veteran[.]; *and*

*(D) a veteran given a veteran's readjustment appointment under the authority of this subsection whose employment under the appointment is terminated within 1 year after the date of such appointment shall have the same right to appeal that termination to the Merit Systems Protection Board as a career or career-conditional employee has during the first year of employment.*

(2) No veterans readjustment appointment may be made under authority of this subsection after September 30, [1984] *1985.*

* * * * * * *

(d) The Office of Personnel Management shall be responsible for the review and evaluation of the implementation of this section and the activities of each such department, agency, and instrumentality to carry out the purpose and provisions of this section. The Office shall periodically obtain and publish (on at least [a semiannual] *an annual* basis) reports on such implementation and activities from each such department, agency, and instrumentality, including specification of the use and extent of appointments made under subsection (b) of the section and the results of the plans required under subsection (c) of this section. Each report under the preceding sentence shall include in the specification of the use and extent of appointments made under subsection (b) of this section the following information (shown for all veterans and separately for veterans described in subsection (b)(1)(C) of this section and other veterans):

* * * * * * *

## PART IV—GENERAL ADMINISTRATIVE PROVISIONS

* * * * * *

## CHAPTER 51—APPLICATIONS, EFFECTIVE DATES, AND PAYMENTS

* * * * * * *

## Subchapter II—Effective Dates

*       *       *       *       *       *       *

### § 3012. Effective dates of reductions and discontinuances

(a) * * *

*       *       *       *       *       *       *

(b) The effective date of a reduction or discontinuance of compensation, dependency and indemnity compensation, or pension—

(1) by reason of marriage or remarriage, or death of a payee shall be the last day of the month before such marriage, remarriage, or death occurs;

(2) by reason of marriage, annulment, divorce, or death of a dependent of a payee shall be the last day of the month in which such marriage, annulment, divorce, or death occurs;

(3) by reason of receipt of active service of active service pay or retirement pay shall be the day before the date such pay began;

(4) by reason of—

(A) change in income shall (except as provided in section 3112 of this title) be the last day of the month in which the change occurred; and

(B) change in corpus of estate shall be the last day of the calendar year in which the change occurred;

(5) by reason of a change in disability or employability of a veteran in receipt of pension shall be the last day of the month in which discontinuance of the award is approved;

(6) by reason of change in law or administrative issue, change in interpretation of a law or administrative issue, or, for compensation purposes, a change in service-connected or employability status or change in physical condition shall be the last day of the month following sixty days from the date of notice to the payee (at his last address of record) of the reduction or discontinuance;

**[**(7) by reason of the discontinuance of school attendance of a payee or a dependent of a payee shall be the last day of the month in which such discontinuance occurred;**]**

**[**(8)**]** *(7)* by reason of termination of a temporary increase in compensation for hospitalization or treatment shall be the last day of the month in which the hospital discharge or termination of treatment occurred, whichever is earlier;

**[**(9)**]** *(8)* by reason of an erroneous award based on an act of commission or omission by the beneficiary, or with the beneficiary's knowledge, shall be the effective date of the award; and

**[**(10)**]** *(9)* by reason of an erroneous award based solely on administrative error or error in judgment shall be the date of last payment.

*       *       *       *       *       *       *

## CHAPTER 55—MINORS, INCOMPETENTS, AND OTHER WARDS

* * * * * * *

### § 3203. Hospitalized veterans and estates of incompetent institutionalized veterans [1]

(a)(1)(A) * * *

* * * * * * *

(b)(1) In any case in which a veteran having neither spouse nor child is being furnished hospital treatment, institutional or domiciliary care without charge or otherwise by the United States, or any political subdivision thereof, is rated by the Veterans' Administration in accordance with regulations as being incompetent [by reason of mental illness] and the veteran's estate *(excluding the value of the veteran's home unless there is no reasonable likelihood that the veteran will again reside in such home),* from any source equals or exceeds $1,500, further payments of pension, compensation, or emergency officers' retirement pay shall not be made until the estate is reduced to $500. The amount which would be payable but for this paragraph shall be paid to the veteran in a lump sum; however, no payment of a lump sum herein authorized shall be made to the veteran until after the expiration of six months following a finding of competency and in the event of the veteran's death before payment of such lump sum no part thereof shall be payable.

* * * * * * *

## PUBLIC LAW 98-77

* * * * * * *

### ELIGIBILITY FOR PROGRAM; DURATION OF ASSISTANCE

Sec. 5. (a)(1) * * *

* * * * * * *

(b)(1) * * *

* * * * * * *

(3)(A) The Administrator shall certify as eligible for participation under this Act a veteran whose application is approved under this subsection and shall furnish the veteran with a certificate of that veteran's eligbility for presentation to an employer offering a program of job training under this Act. Any such certificate shall expire [60] *90* days after it is furnished to the veteran. The date on which a certificate is furnished to a veteran under this paragraph shall be stated on the certificate.

* * * * * * *

### AUTHORIZATION OF APPROPRIATIONS

Sec. 16. There is authorized to be appropriated to the Veterans' Administration $150,000,000 for each of fiscal years 1984 and 1985 for the purpose of making payments to employers under this Act and for the purpose of section 18 of this Act. Amounts appropriated pursuant to this section shall remain until September 30, [1986.] *1987.*

TERMINATION OF PROGRAM

SEC. 17. [(a) Except as provided under subsection (b), assistance] *Assistance* may not be paid to an employer under this Act—

(1) on behalf of a veteran who *initially* applies for a program of job training under this Act after [September 30,] *November 29,* 1984; or

(2) for any such program which begins after [December 31, 1984.] *September 1, 1985.*

[(b) If funds are not both appropriated under section 16 and made available by the Director of the Office of Management and Budget to the Veterans' Administration on or before October 1, 1983, for the purpose of making payments to employers under this Act, assistance may be paid to an employer under this Act on behalf of a veteran if the veteran—

[(1) applies for a program of job training under this Act within one year after the date on which funds so appropriated are made available to the Veterans' Administration by the Director; and

[(2) begins participation in such program within fifteen months after such date.]

# APPENDIX C

[From the Congressional Record, Vol. 130, No. 128, pp. S12589-S12614--Senate, Oct. 2, 1984]

## VETERANS' DISABILITY COMPENSATION ACT

**Mr. STEVENS.** Mr. President, I ask the Chair lay before the Senate Calendar Order 1105, S. 2736.

The legislative clerk read as follows:

A bill (S. 2736) to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans and to increase the rates of dependency and indemnity compensation for surviving spouses and children of veterans; and for other purposes.

The **PRESIDING OFFICER.** Is there objection to immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Veterans' Affairs with an amendment to strike out all after the enacting clause, and insert the following:

*SECTION 1. (a) This Act may be cited as the "Veterans' Administration Benefit Rate Increase and Program Improvement Act of 1984".*

*(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.*

### *TITLE I—DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION*

### *PART A—RATE INCREASES*

*DISABILITY COMPENSATION*

*SEC. 101. (a) Section 314 is amended—*

*(1) by striking out "$64" in subsection (a) and inserting in lieu thereof "$67";*

*(2) by striking out "$118" in subsection (b) and inserting in lieu thereof "$124";*

*(3) by striking out "$179" in subsection (c) and inserting in lieu thereof "$187";*

*(4) by striking out "$258" in subsection (d) and inserting in lieu thereof "$270";*

*(5) by striking out "$364" in subsection (e) and inserting in lieu thereof "$381";*

*(6) by striking out "$459" in subsection (f) and inserting in lieu thereof "$481";*

*(7) by striking out "$579" in subsection (g) and inserting in lieu thereof "$606";*

*(8) by striking out "$671" in subsection (h) and inserting in lieu thereof "$703";*

*(9) by striking out "$755" in subsection (i) and inserting in lieu thereof "$790";*

*(10) by striking out "$1,255" in subsection (j) and inserting in lieu thereof "$1,314";*

*(11) by striking out "$1,559" and "$2,185" in subsection (k) and inserting in lieu thereof "$1,632" and "$2,288", respectively;*

*(12) by striking out "$1,559" in subsection (l) and inserting in lieu thereof "$1,632";*

*(13) by striking out "$1,719" in subsection (m) and inserting in lieu thereof "$1,800";*

*(14) by striking out "$1,954" in subsection (n) and inserting in lieu thereof "$2,046";*

*(15) by striking out "$2,185" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$2,288";*

*(16) by striking out "$938" and "$1,397" in subsection (r) and inserting in lieu thereof "$982" and "$1,463", respectively;*

*(17) by striking out "$1,404" in subsection (s) and inserting in lieu thereof "$1,470"; and*

*(18) by striking out "$271" in subsection (t) and inserting in lieu thereof "$284".*

*(b) The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.*

*ADDITIONAL COMPENSATION FOR DEPENDENTS*

*SEC. 102. Section 315(1) is amended—*

*(1) by striking out "$77" in clause (A) and inserting in lieu thereof "$81";*

*(2) by striking out "$128" and "$41" in clause (B) and inserting in lieu thereof "$134" and "$43", respectively;*

*(3) by striking out "$52" and "$41" in clause (C) and inserting in lieu thereof "$54" and "$43", respectively;*

*(4) by striking out "$62" in clause (D) and inserting in lieu thereof "$65";*

*(5) by striking out "$139" in clause (E) and inserting in lieu thereof "$146"; and*

*(6) by striking out "$116" in clause (F) and inserting in lieu thereof "$121".*

*CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS*

*SEC. 103. Section 362 is amended by striking out "$338" and inserting in lieu thereof "$354".*

*DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES*

*SEC. 104. (a) Subsection (a) of section 411 is amended to read as follows:*

*"(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:*

| *Pay grade* | *Monthly rate* | *Pay grade* | *Monthly rate* |
|---|---|---|---|
| E-1 | $483 | W-4 | $692 |
| E-2 | 497 | O-1 | 610 |
| E-3 | 509 | O-2 | 630 |
| E-4 | 540 | O-3 | 674 |
| E-5 | 557 | O-4 | 713 |
| E-6 | 570 | O-5 | 786 |
| E-7 | 598 | O-6 | 886 |
| E-8 | 630 | O-7 | 958 |
| E-9 | [1]659 | O-8 | 1,050 |
| W-1 | 610 | O-9 | 1,126 |
| W-2 | 636 | O-10 | [2]1,234 |
| W-3 | 653 | | |

*"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $710.*

*"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,324."*

*(b) Subsection (b) of such section is amended by striking out "$53" and inserting in lieu thereof "$55".*

*(c) Subsection (c) of such section is amended by striking out "$139" and inserting in lieu thereof "$146".*

*(d) Subsection (d) of such section is amended by striking out "$68" and inserting in lieu thereof "$71".*

*DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN*

*SEC. 105. Section 413 is amended—*

*(1) by striking out "$233" in clause (1) and inserting in lieu thereof "$244";*

*(2) by striking out "$334" in clause (2) and inserting in lieu thereof "$350";*

*(3) by striking out "$432" in clause (3) and inserting in lieu thereof "$452"; and*

*(4) by striking out "$432" and "$87" in clause (4) and inserting in lieu thereof "$452" and "$91", respectively.*

*SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN*

*SEC. 106. Section 414 is amended—*

*(1) by striking out "$139" in subsection (a) and inserting in lieu thereof "$146";*

*(2) by striking out "$233" in subsection (b) and inserting in lieu thereof "$244"; and*

*(3) by striking out "$118" in subsection (c) and inserting in lieu thereof "$124".*

*EFFECTIVE DATE*

*SEC. 107. Except as provided in section 108, sections 101 through 106 shall take effect on December 1, 1984.*

*ALTERNATIVE RATE INCREASES*

*SEC. 108. (a)(1) If the percentage of the increase in benefit amounts under title II of the Social Security Act that will take effect on December 1, 1984, as a result of a determination under section 215(i) of such Act is not 4.7 percent—*

*(A) sections 101 through 106 shall not take effect; and*

*(B) the Administrator of Veterans' Affairs shall (i) compute alternative increased rates and limitations that are equal to those that would be arrived at by increasing, by the same percentage as the percentage by which such benefit amounts will thus be increased, each dollar amount that would have been increased by the amendments that would have been made by such titles, and (ii) effective December 1, 1984, pay benefits under chapters 11 and 13 of title 38, United States Code, in accordance with such alternative increased rates and limitations.*

*(2) In the computation of alternative increased rates and limitations pursuant to subsection (a), amounts of $.50 or more shall be rounded to the next higher dollar amount and amounts of less than $.50 shall be rounded to the next lower dollar amount.*

*(b) The Administrator may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.*

*(c) If, under subsection (a), the Administrator is required to compute alternative increased rates and limitations, the Administrator shall publish in the Federal Register, at the same time as the material required by section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) is published by reason of a determination under section 215(i) of such Act, such alternative increased rates and limitations and the dollar amounts that would have been increased by the amendments that would have been made by sections 101 through 106.*

### *PART B—COMPENSATION PROGRAM AMENDMENTS*

*TRIAL WORK PERIOD PILOT PROJECT*

*SEC. 110. (a)(1) Subchapter VI of chapter 11 is amended by adding at the end the following new sections:*

*"§ 363. Trial period of work for certain veterans with total disability ratings*

*"(a) Subject to subsections (c) and (f) of this section, for the purposes of determining whether an unemployable veteran has regained the ability to secure or follow a substantially gainful occupation, any activity performed for remuneration or gain by such veteran (or any activity performed by such veteran that is determined by the Administrator to be activity of a type normally performed for remuneration or gain) during a period of trial work shall be deemed not to have been performed by such veteran during such period.*

*"(b) If the amount of income earned by a veteran who has completed a period of trial work pursuant to subsection (a) of this section and whose compensation has been reduced is less than $300 in any month during the 12-month period beginning with the month such reduction took effect—*

*"(1) such veteran's total disability rating shall be restored effective as of the first day of such month; and*

*"(2) the Administrator shall review the case and determine whether the veteran continues to be an unemployable veteran.*

*In the event that, upon completion of such a review, the Administrator determines that* the veteran is no longer an unemployable veteran, the effective date of the resulting reduction in the veteran's compensation shall, notwithstanding section 3012(b)(6) of this title, be fixed in accordance with the facts.

"(c)(1) In order for a period of trial work to apply in the case of an unemployable veteran, the veteran must, not later than the thirtieth day after the date on which the veteran begins to perform activity described in subsection (a) of this section, notify the Administrator in writing that the veteran desires or intends to perform such activity or has begun to perform such activity, as the case may be, and that the veteran desires to participate in a period of trial work.

"(2) A veteran may participate in no more than one period of trial work under this section.

"(d) The Administrator shall make available to each unemployable veteran, whether or not such veteran is participating in a vocational rehabilitation program under chapter 31 of this title, the counseling and services described in section 1504(a) (2) and (5) of this title. Upon receiving notification from an unemployable veteran under subsection (c)(1) of this section, the Administrator shall notify the veteran in writing about the availability of such counseling and services.

"(e) For the purposes of this section:

"(1) The term 'period of trial work' means, in the case of an unemployable veteran, the 12-month period following the date on which the veteran begins to perform activity described in subsection (a) of this section in connection with the notice provided pursuant to subsection (c) of this section.

"(2) The term 'unemployable veteran' means a veteran who has a service-connected disability, or service-connected disabilities, not rated as total, but who meets the requirements for a total disability rating (other than a rating protected by the first sentence of section 110 of this title) by reason of inability to secure or follow a substantially gainful occupation as a result of such disability or disabilities.

"(f)(1) This section shall take effect on the first day of the fifth full month following the date of the enactment of this section.

"(2) No period of trial work shall apply in the case of a veteran unless such veteran has provided the notice required by subsection (c)(1) of this section and has performed activity described in subsection (a) of this section in at least 1 month, prior to the thirty-seventh month (or the forty-ninth month, if the Administrator determines that it is in the best interests of veterans and the United States to extend such time) following the month that this section takes effect. The Administrator shall promptly notify the Committees on Veterans' Affairs of the House of Representatives and the Senate of any extension provided under the preceding sentence.

**"§ 364. Vocational rehabilitation for certain veterans with total disability ratings**

"(a)(1) In the case of each award of a total disability rating that is made, on or after the first day of the fifth full month following the date of the enactment of this section, on the ground that the veteran is an unemployable veteran, the Administrator shall provide to the veteran, at the time that notice of the award is provided to the veteran, notice of the requirements of paragraph (2) of this subsection.

"(2) Each unemployed veteran who has been provided with notice pursuant to paragraph (1) of this subsection shall—

"(A) within 30 days after such notice is mailed to the veteran, submit an application for an evaluation under chapter 31 of this title, and

"(B) if determined to be eligible for such evaluation, cooperate in the conduct of the evaluation and, if the Administrator formulates a vocational rehabilitation program for the veteran in accordance with the provisions of such chapter, pursue such program.

"(b)(1) If the Administrator determines that a veteran has failed to comply substantially with the requirements of subsection (a) of this section and does not determine that mitigating circumstances exist, the Administrator shall—

"(A) provide the veteran with notice that, unless the veteran resumes substantial compliance with such requirements within 60 days after the Administrator provided such notice (or such longer period as the Administrator determines is the shortest period within which it is reasonably feasible for the veteran to resume compliance), the Administrator will conduct a review of the determination that the veteran is an unemployable veteran and the noncompliance shall be considered in such review; and

"(B) unless the veteran has resumed such substantial compliance, conduct such review after such 60 days (or such longer period, if applicable) has expired.

"(2) In the event that, upon a review conducted pursuant to paragraph (1) of this subsection, the Administrator determines that the veteran is no longer an unemployable veteran, nothing in this subsection shall preclude a subsequent award of a total disability rating to the veteran.

"(c) For the purposes of this section, the term 'unemployable veteran' has the same meaning provided in section 363(e)(2) of this title.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 362 the following new items:

"363. Trial period of work for certain veterans with total disability ratings.
"364. Vocational rehabilitation for certain veterans with total disability ratings.".

(b)(1) Beginning not later than 90 days after the date of the enactment of this Act, the Administrator of Veterans' Affairs shall provide to each veteran who has a service-connected disability, or service-connected disabilities, not rated as total, but who has a total disability rating (other than a rating protected by the first sentence of section 110 of title 38, United States Code) by reason of a determination of inability to secure or follow a substantially gainful occupation as a result of such disability or disabilities (A) information explaining the provisions of section 363 of title 38, United States Code (as added by subsection (a)(1)), (B) a description of the procedure for participating in a period of trial work pursuant to such section 363, (C) information explaining the purposes and availability of and eligibility for, and the procedures for participating in, vocational rehabilitation under chapter 31 of such title, and (D) a summary description of the scope of services and assistance available under that chapter.

(2) In the case of a veteran to whom notice is required to be provided under section 364(a)(1) of such title (as added by subsection (a)(1)), the notice required by paragraph (1) shall be provided together with such notice.

(c) Not later than 39 months after section 363 of title 38, United States Code (as added by subsection (a)(1)), becomes effective, the Administrator shall submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a report on the results of the first 3 years' implementation of that section, section 364 of such title (as also added by subsection (a)(1)), and subsection (b) of this section. The Administrator shall include in the report the Administrator's assessments of the value (including the cost-effectiveness) and effect of such implementation and any recommendations of the Administrator for administrative and legislative action based on such results and assessments.

## TITLE II—VETERANS' ADMINISTRATION REHABILITATION AND EDUCATION PROGRAMS

### PART A—RATE INCREASES

RATES OF REHABILITATION SUBSISTENCE ALLOWANCES FOR SERVICE-CONNECTED DISABLED VETERANS

SEC. 201. The table contained in section 1508(b) is amended to read as follows:

| "Column I | Column II | Column III | Column IV | Column V |
|---|---|---|---|---|
| Type of program | No dependents | One dependent | Two dependents | More than two dependents |
| | | | | The amount in column IV, plus the following for each dependent in excess of two: |
| Institutional training: | | | | |
| Full-time | $310 | $384 | $452 | $33 |
| Three-quarter-time | 233 | 288 | 339 | 25 |
| Half-time | 155 | 193 | 227 | 17 |
| Farm cooperative, apprentice, or other on-job training: | | | | |
| Full-time | 271 | 317 | 372 | 24 |
| Extended evaluation: | | | | |
| Full-time | 310 | 384 | 452 | 33 |
| Independent living training: | | | | |
| Full-time | 310 | 384 | 452 | 33 |
| Three-quarter-time | 233 | 288 | 339 | 25 |
| Half-time | 155 | 193 | 227 | 17". |

RATES OF GI BILL EDUCATIONAL ASSISTANCE FOR VETERANS

SEC. 202. Chapter 34 is amended—

(1) by amending the table contained in paragraph (1) of section 1682(a) to read as follows:

| "Column I | Column II | Column III | Column IV | Column V |
|---|---|---|---|---|
| Type of program | No dependents | One dependent | Two dependents | More than two dependents" |
| | | | | The amount in column IV, plus the following for each dependent in excess of two: |
| Institutional training: | | | | |
| Full-time | $376 | $448 | $510 | $32 |
| Three-quarter-time | 282 | 336 | 383 | 24 |
| Half-time | 188 | 224 | 255 | 17 |
| Cooperative | 304 | 355 | 404 | 23". |

(2) by striking out "$342" in section 1682(b) and inserting in lieu thereof "$376";

(3) by amending the table contained in section 1682(c) to read as follows:

| "Column I | Column II | Column III | Column IV | Column V |
|---|---|---|---|---|
| Basis | No dependents | One dependent | Two dependents | More than two dependents |
|  |  |  |  | The amount in column IV, plus the following for each dependent in excess of two: |
| Full time | $304 | $355 | $404 | $23 |
| Three-quarter time | 228 | 266 | 303 | 18 |
| Half-time | 152 | 178 | 202 | 12"; and |

(4) by striking out "$76" and "$911" in section 1692(b) and inserting in lieu thereof "$84" and "$1,008", respectively.

### RATES OF EDUCATIONAL ASSISTANCE FOR SURVIVORS AND DEPENDENTS

SEC. 203. Chapter 35 is amended—

(1) by striking out "$276" in section 1732(b) and inserting in lieu thereof "$304"; and

(2) by striking out "$342", "$108", "$108", and "$11.44" in section 1742(a) and inserting in lieu thereof "$376", "$119", "$119", and "$12.58", respectively.

### RATES OF REPORTING FEES AND OF TRAINING ALLOWANCES FOR APPRENTICESHIP OR OTHER ON-JOB TRAINING

SEC. 204. Chapter 36 is amended—

(1) by striking out "$7" and "$11" in the second sentence of section 1784(c) and inserting in lieu thereof "$9" and "$13", respectively;

(2) by striking out "$342" in section 1786(a)(2) and inserting in lieu thereof "$376";

(3) by amending the table in section 1787(b)(1) to read as follows:

| "Column I | Column II | Column III | Column IV | Column V |
|---|---|---|---|---|
| Periods of training | No dependents | One dependent | Two dependents | More than two dependents |
|  |  |  |  | The amount in column IV, plus the following for each dependent in excess of two: |
| First 6 months | $274 | $307 | $336 | $14 |
| Second 6 months | 205 | 239 | 267 | 14 |
| Third 6 months | 136 | 171 | 198 | 14 |
| Fourth and any succeeding 6-month periods | 68 | 101 | 131 | 14"; and |

(4) by striking out "$342" in section 1798(b)(3) and inserting in lieu thereof "$376".

### EFFECTIVE DATE

SEC. 205. The amendments made by this part shall become effective on October 1, 1984.

## PART B—REHABILITATION AND EDUCATION PROGRAM IMPROVEMENTS

### TOLLING DELIMITING DATES BY REASON OF DRUG AND ALCOHOL CONDITIONS

SEC. 210. (a) Section 1503(b)(1) is amended—

(1) by inserting "(A)" before "In"; and

(2) by inserting at the end the following new subparagraph:

"(B)(i) Subject to clauses (iii) and (iv) of this subparagraph, in any case in which the Administrator determines that a veteran with qualifying service (as described in clause (iii) of this subparagraph) has been prevented from participating in a vocational rehabilitation program under this chapter within the period of eligibility prescribed in subsection (a) of this section because a condition described in clause (ii) of this subparagraph made it infeasible for such veteran to participate in such a program, the 12-year period of eligibility shall not run during the period of time that such veteran was so prevented from participating in such a program.

"(ii) The condition referred to in clause (i) of this subparagraph is an alcohol or drug dependence or abuse condition of a veteran in a case in which it is determined, under regulations which the Administrator shall prescribe, that—

"(I) such veteran has received recognized treatment for such condition or has participated in a program of rehabilitation for such condition, and

"(II) such condition is sufficiently under control to enable such veteran to participate in a vocational rehabilitation program under this chapter.

"(iii) Subject to the succeeding sentence, qualifying service referred to in clause (i) of this subparagraph is active military, naval, or air service from which the veteran was discharged or released under conditions other than dishonorable. In any case in which the veteran received a discharge other than an honorable discharge, a determination as to whether the veteran was discharged under conditions other than dishonorable shall be made by the Administrator on the basis of a review of the veteran's service record.

"(iv) Clause (i) of this subparagraph applies only if the veteran has filed an application under this paragraph within 1 year after (I) the last date of the period of eligibility otherwise applicable under this section, (II) the termination of the last period of such treatment or such program of rehabilitation, or (III) the date on which final regulations prescribed pursuant to clause (i) of this subparagraph are published in the Federal Register, whichever is the latest.

"(v) The period of time during which, pursuant to clause (i) of this subparagraph, the 12-year period of eligibility does not run shall be limited to the period during which the veteran was receiving treatment or the period of time the veteran was participating in a program of rehabilitation for such condition plus such additional length of time as the veteran demonstrates, to the satisfaction of the Administrator, that the veteran was prevented by such condition from participating in a vocational rehabilitation program under this chapter, but in no event shall such period of time be more than 4 years.

"(vi) When, pursuant to clause (i) of this subparagraph, a period of eligibility does not run for a period of time, such period of eligibility shall again begin to run on the first day, following such condition becoming sufficiently under control to enable such veteran to participate in such a program of vocational rehabilitation, on which it is reasonably feasible, as determined under such regulations, for such veteran to participate in such a program.".

(b) Section 1662(a) is amended—

(1) in paragraph (1)—

(A) by inserting "or because of a condition (and under the circumstances) described in paragraph (4) of this subsection," after "misconduct"; and

(B) by inserting "(except as provided in paragraph (4)(B)(ii) of this subsection)" after "length of time"; and

(C) by inserting "because of such disability," after "sentence"; and

(2) by inserting at the end the following new paragraph:

"(4)(A) A condition referred to in paragraph (1) of this subsection is an alcohol or drug dependence or abuse condition of a veteran with qualifying service (as described in subparagraph (B) of this paragraph) in a case in which it is determined, under regulations which the Administrator shall prescribe, that—

"(i) such veteran has received recognized treatment for such condition or has participated in a program of rehabilitation for such condition, and

"(ii) such condition is sufficiently under control to enable such veteran to pursue such veteran's chosen program of education under this chapter.

"(B) Subject to the succeeding sentence, qualifying service referred to in subparagraph (A) of this paragraph is active military, naval, or air service from which veteran was discharged or released under conditions other than dishonorable. In any case in which the veteran received a discharge other than an honorable discharge, a determination as to whether the veteran was discharged under conditions other than dishonorable shall be made by the Administrator on the basis of a review of the veteran's service record.

"(C)(i) Notwithstanding the provisions of paragraph (1) of this subsection, a veteran may be granted an extension of the applicable delimiting period because of such condition upon application for such extension made within 1 year after (I) the last date of the delimiting period otherwise applicable under this section, (II) the termination of the last period of such treatment or such program of rehabilitation, or (III) the date on which final regulations prescribed pursuant to subparagraph (A) of this paragraph are published in the Federal Register, whichever is the latest.

"(ii) An extension of the applicable delimiting period because of such condition shall be limited to the period of time the veteran was receiving treatment or the period of time the veteran was participating in a program of rehabilitation for such condition plus such additional length of time as the veteran demonstrates, to the satisfaction of the Administrator, that the veteran was prevented by such condition for initiating or completing such program of education, but in no event shall the extension be for more than 4 years. When such extension is granted, the delimiting period with respect to such veteran will again begin running on the first day, following such condition becoming sufficiently under control to enable such veteran to pursue such veteran's chosen program of education under this chapter, on which it is reasonably feasible, as determined in accordance with such regulations, for such veteran to initiate or resume pursuit of a program of education with educational assistance under this chapter.".

(c) Section 1712(b) is amended—

(1) in paragraph (2)—

(A) by inserting "or because of a condition (and under the circumstances) described in paragraph (3)(A) of this subsection," after "misconduct";

(B) by inserting "(except as provided in paragraph (3)(B)(ii) of this subsection)" after "length of time"; and

(C) by inserting "because of such disability," after "sentence"; and

(2) by inserting at the end the following new paragraph:

"(3)(A) A condition referred to in paragraph (2) of this subsection is an alcohol or drug dependence or abuse condition of an eligible person in a case in which it is determined, under regulations which the Administrator shall prescribe, that—

"(i) such person (I) has received recognized treatment for such condition, or (II) has participated in a program of rehabilitation for such condition, and

"(ii) such condition is sufficiently under control to enable such person to pursue such person's chosen program of education under this chapter.

"(B)(i) Notwithstanding the provisions of paragraph (2) of this subsection, an eligible person may be granted an extension of the applicable delimiting period because of such condition upon application for such extension made within 1 year after (I) the last date of the delimiting period otherwise applicable under this section, (II) the termination of the last period of such treatment or such program of rehabilitation, or (III) the date on which final regulations prescribed pursuant to subparagraph (A) of this paragraph are published in the Federal Register, whichever is the latest.

"(ii) An extension of the applicable delimiting period because of such condition shall be limited to the period of time the eligible person was receiving treatment or the period of time such person was participating in a program of rehabilitation for such condition plus such additional length of time as such person demonstrates, to the satisfaction of the Administrator, that such person was prevented by such condition from initiating or completing such program of education, but in no event shall the extension be for more than 4 years. When such extension is granted, the delimiting period with respect to such person will again begin running on the first day, following such condition becoming sufficiently under control to enable such person to pursue such person's chosen program of education under this chapter, on which it is reasonably feasible, as determined in accordance with such regulations, for such person to initiate or resume pursuit of a program of education with educational assistance under this chapter.".

### REPEAL OF REPORTING REQUIREMENT

SEC. 211. Section 1796 is amended by striking out subsection (d).

### TERM-BY-TERM CERTIFICATIONS

SEC. 212. Prior to making any changes in the practices, policies, or regulations pertaining to reports by institutions required to be submitted pursuant to section 1784 of title 38, United States Code, as such practices, policies, and regulations were in effect on July 1, 1984, the Administrator shall consult with and obtain the recommendations of the advisory committee established pursuant to section 1792 of such title.

## TITLE III—VETERANS' EMPLOYMENT PROGRAMS

### VETERANS' READJUSTMENT APPOINTMENTS

SEC. 301. (a) Subsection (b) of section 2014 is amended—

(1) in paragraph (1)—

(A) by striking out "and" at the end of clause (B);

(B) by striking out the period at the end of clause (C) and inserting in lieu thereof a semicolon and "and"; and

(C) by adding at the end the following new clause:

"(D) a veteran given a veteran's readjustment appointment under the authority of this subsection whose employment under the appointment is terminated within 1 year after the date of such appointment shall have the same right to appeal that termination to the Merit Systems Protection Board as a career or career-conditional employee has during the first year of employment."; and

(2) by striking out "1984" and inserting in lieu thereof "1985" in paragraph (2).

(b) The second sentence of subsection (d) of such section is amended by striking out "a semiannual" and inserting in lieu thereof "an annual".

### EMERGENCY VETERANS' JOB TRAINING ACT PROGRAM

SEC. 302. (a) Section 5(b)(3)(A) of the Emergency Veterans' Job Training Act of 1983 (Public Law 98-77; 97 Stat. 445) is amended by striking out "60" and inserting in lieu thereof "90".

(b) Section 16 of such Act is amended by striking out "1986" and inserting in lieu thereof "1987".

(c) Section 17 of such Act is amended to read as follows:

"SEC. 17. Assistance may not be paid to an employer under this Act—

"(1) on behalf of a veteran who initially applies for a program of job training under this Act after November 29, 1984; or

"(2) for any such program which begins after September 1, 1985.".

## TITLE IV—VETERANS' ADMINISTRATION NON-SERVICE CONNECTED DISABILITY PENSION

### TRIAL WORK PERIOD PILOT PROJECT

SEC. 401. (a)(1) Chapter 15 is amended by adding at the end the following new section:

**"§ 524. Trial work period for pension recipients**

"(a) Subject to subsections (d) and (f) of this section, for purposes of any determination of whether a veteran is permanently and totally disabled for purposes of this chapter, any activity performed for remuneration or gain by a veteran (or any activity performed by a veteran that is determined by the Administrator to be of a type normally performed for remuneration or gain) during a period of trial work shall be deemed not to have been performed by such veteran during such period.

"(b) Notwithstanding any provision of chapter 17 of this title, in the case of a veteran whose pension under section 521 of this title is terminated by reason of income from work or training, the veteran shall retain, during the period of trial work applicable to the veteran, all eligibility for care and services under such chapter (including, as appropriate, drugs and medicines under section 612(h) of this title and special priority with respect to such care and services under section 612(i)(5) of this title) that the veteran would have if the veteran's pension had not been terminated.

"(c)(1) Notwithstanding any provision of chapter 17 of this title, in the case of a veteran whose entitlement to pension under section 521 of this title is terminated by reason of income from work or training either during the veteran's participation in a vocational rehabilitation program under chapter 31 of this title or under a State plan approved under title I of the Rehabilitation Act of 1973 or following the veteran's completion of such a program, the veteran shall retain, until the end of the twelfth month following the termination of either the veteran's entitlement to pension or the veteran's participation in such program, whichever is later, all eligibility for care and services under such chapter 17 (including, as appropriate, drugs and medicines under section 612(h) of this title and special priority with respect to such care and services under section 612(i)(5) of this title) that the veteran would have if the veteran's pension had not been terminated.

"(2) Notwithstanding section 503 of this title, payment of a subsistence or maintenance allowance in connection with a veteran's participation in a vocational rehabilitation program under chapter 31 of this title or under a State plan approved under title I of the Rehabilitation Act of 1973 for any month during which it is necessary for the veteran to reside away from the veteran's permanent residence in order to participate in such program shall not be included in determining, under section 503 of this title, the veteran's annual income for purposes of this chapter.

"(d)(1) In order for a period of trial work to apply in the case of a veteran, the veteran must, not later than the thirtieth day after the date on which the veteran begins to perform activity described in subsection (a) of this section, notify the Administrator in writing that the veteran desires or intends to perform such activity or has begun to perform such activity, as the case may be, and that the veteran desires to participate in a period of trial work.

"(2) A veteran may participate in no more than one period of trial work under this section.

"(3) Except as provided in subsection (c)(2) of this section, no provision of this section shall result in any payment received by a veteran being excluded in determining, under section 503 of this title, the veteran's annual income for purposes of this chapter.

"(e) For purposes of this section:

"(1) The term 'period of trial work' means the 36-month period following the date on which the veteran begins to perform activity described in subsection (a) of this section in connection with the notice provided pursuant to subsection (d)(1) of this section.

"(2) The term 'terminated by reason of income from work or training' means, with respect to disability pension paid to a veteran, terminated as a result of the veteran's receipt of earnings from activity performed for remuneration or gain, but only if the veteran's annual income from sources other than such earnings would, taken alone, not result in the termination of the veteran's disability pension.

"(f)(1) This section shall take effect on the first day of the fifth full month after the date of the enactment of this section.

"(2) No period of trial work shall apply in the case of a veteran unless such veteran has provided the notice required by subsection (d)(1) of this section and has performed activity described in subsection (a) of this section in at least 1 month prior to the thirty-seventh month (or the forty-ninth month, if the Administrator determines that it is in the best interests of veterans and the United States to extend such time) following the month that this section takes effect. The Administrator shall promptly notify the Committees on Veterans' Affairs of the House of Representatives and the Senate of any extension provided under the preceding sentence.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 523 the following new item:

"524. Trial work period for pension recipients.".

(b) Not later than 39 months after section 524 of title 38, United States Code (as added by subsection (a)(1)), becomes effective, the Administrator of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a report on the results of the first 3 years' implementation of that section. The Administrator shall include in the report the Administrator's assessments of the value (including the cost-effectiveness) and effect of the implementation of that section and any recommendations of the Administrator for administrative and legislative action based on such results and assessments.

### REPORT ON MEDICAL EXAMINATIONS OF CERTAIN PENSION RECIPIENTS

SEC. 402. (a) Not later than 28 months after the date of the enactment of this Act, the Administrator of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a report containing a statistical tabulation of the results of the examinations conducted as described in subsection (b).

(b) In order to prepare the report described in subsection (a) with respect to each veteran who, during the 2-year period beginning on the date of the enactment of this Act, is awarded pension under chapter 15 of title 38, United States Code, and who is considered, under section 502(a) of such title, to be permanently and totally disabled by reason of being 65 years of age or older or becoming unemployable after age 65, the Administrator, not later than 90 days after making such award, shall (1) conduct and the veteran shall undergo a medical examination of the veteran (as though the veteran were applying for compensation under chapter 11 of such title), and (2) determine what, if any, percentage rating would be applicable to the *veteran under the schedule of ratings adopted pursuant to section 355 of such title.*

## *TITLE V—OTHER BENEFIT RATE INCREASES*

### *SPECIALLY-ADAPTED HOUSING GRANTS*

*Sec. 501. Section 802 is amended—*

*(1) in subsection (a), by striking out "$32,500" and inserting in lieu thereof "$35,750"; and*

*(2) in subsection (b), by striking out "$5,000" and inserting in lieu thereof "$5,500".*

### *AUTOMOBILE ASSISTANCE*

*Sec. 502. Section 1902(a) is amended by striking out "$4,400" and inserting in lieu thereof "$4,840".*

### *EFFECTIVE DATES*

*Sec. 503. The amendments made by sections 501 and 502 shall take effect on July 1, 1985.*

## *TITLE VI—MISCELLANEOUS PROVISIONS*

### *DEFINITION OF VIETNAM ERA*

*Sec. 601. (a) Section 101(29) is amended to read as follows:*

*"(29) The term 'Vietnam era' means (A) the period beginning on August 5, 1964, and ending on May 7, 1975, and (B) the period beginning on February 21, 1961, and ending on May 7, 1975, in the case of a veteran who served in the Republic of Vietnam during such period.".*

*(b) The amendment made by subsection (a) shall take effect on the date of the enactment of this Act or October 1, 1984, whichever is later.*

### *PAYMENT FOR THERAPEUTIC AND REHABILITATIVE ACTIVITIES*

*Sec. 602. (a) Notwithstanding any other provision of law, no amount of remuneration provided to an individual as a participant in a therapeutic or rehabilitative activity carried out pursuant to section 618 of title 38, United States Code, shall be included in determining annual income for purposes of payments of pension (as defined in section 101(15) of such title).*

*(b)(1) Subsection (a) shall take effect on October 1, 1984, and shall cease to have effect on December 31, 1987.*

*(2)(A) In the case of each person who on January 1, 1984, was, or on a subsequent date prior to October 1, 1984, became, a participant in an activity under such section 618 and who either (A) continuously participated in such activity from January 1, 1984, or such subsequent date through September 30, 1984, or (B) terminated such participation for the purpose of entering into more remunerative employment, the Administrator of Veterans' Affairs shall pay to such person, from funds in the Veterans' Administration compensation and pension account, an amount equal to the amount of pension (as so defined) that such person would have been eligible to receive by reason of subsection (a) if it had become effective as of January 1, 1984.*

*(B) This paragraph shall take effect on October 1, 1984.*

*(c) Not later than February 1, 1987, the Administrator of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a report, with respect to fiscal years 1985 and 1986, on the implementation of subsections (a) and (b). Such report shall contain information regarding the numbers of individuals who participated in activities under such section 618, the numbers of such individuals who are in receipt of Veterans' Administration pension, the costs of excluding payments provided for participation in an activity under such section 618 from countable income for Veterans' Administration pension purpose, and the effect of so excluding such payments on the participation of veterans in such activities. Such report shall also include any recommendations of the Administration for legislative or administrative action in light of information contained in the report.*

*(d) Section 618 is amended by adding at the end the following new subsection:*

*"(f) Neither a veteran's participation in an activity carried out under this section nor such veteran's receipt of remuneration as a result of such participation shall be considered as a basis for the denial or discontinuance of a total disability rating for purposes of compensation or pension based on the veteran's inability to secure or follow a substantially gainful occupation as a result of disability.".*

### *EFFECTIVE DATE OF REDUCTIONS OF CERTAIN DEPENDENTS' ALLOWANCES*

*Sec. 603. Section 3012(b) is amended—*

*(1) by striking out clause (7); and*

*(2) by redesignating clauses (8), (9), and (10) as clauses (7), (8), and (9), respectively.*

### *SUSPENSIONS OF COMPENSATION AND PENSION PAYMENTS TO CERTAIN INSTITUTIONALIZED VETERANS*

*Sec. 604. The first sentence of section 3203(b)(1) is amended—*

*(1) by striking out "by reason of mental illness"; and*

*(2) by inserting "(excluding the value of the veteran's home unless there is no reasonable likelihood that the veteran will again reside in such home)," after "the veteran's estate".*

### *DELETION OF GENDER REFERENCES*

*Sec. 605. Section 103 is amended—*

*(1) in subsection (a)—*

*(A) by striking out "a woman as the widow" and inserting in lieu thereof "an individual as the surviving spouse";*

*(B) by striking out "she" and inserting in lieu thereof "such individual";*

*(C) by striking out "him" and "his" and inserting in lieu thereof "such veteran" and "such veteran's", respectively; and*

*(D) by striking out "widow" and inserting in lieu thereof "surviving spouse";*

*(2) in subsection (b), by striking out "widow" and inserting in lieu thereof "surviving spouse";*

*(3) in subsection (c), by striking out "a woman is or was the wife" and inserting in lieu thereof "an individual is or was the spouse"; and*

*(4) in subsection (d)—*

*(A) in paragraphs (1) and (2), by striking out "widow of a veteran shall not bar the furnishing of benefits to her as the widow" each place it appears and inserting in lieu thereof "surviving spouse of a veteran shall not bar the furnishing of benefits to that individual as the surviving spouse"; and*

*(B) by amending paragraph (3) to read as follows:*

*"(3) If a surviving spouse of a veteran ceases living with another individual and holding out to the public that such surviving spouse is the spouse of such individual, the bar to granting such surviving spouse benefits as the surviving spouse of the veteran shall not apply.".*

### AMENDMENT NO. 6909

(Purpose: To provide for a waiver of the discontinuation payments for certain incompetent veterans who require temporary periods of hospital treatment or institutional or domiciliary care)

**Mr. STEVENS.** Mr. President, I send an amendment to the desk on behalf of Senators SIMPSON, CRANSTON, and COHEN.

**The PRESIDING OFFICER.** The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. SIMPSON, Mr. CRANSTON, and Mr. COHEN, proposes an amendment numbered 6909:

On page 43, line 16, insert "(a)" after "Sec. 604.".

On page 43, between lines 23 and 24, insert the following new subsection:

(b)(1) Paragraph (1) of section 3203(b) is amended—

(A) by designating the first and second sentences as subparagraphs (A) and (B), respectively;

(B) by striking out the comma after "treatment" in subparagraph (A), as so designated, and inserting in lieu thereof "or", and

(C) by adding at the end the following new subparagraph:

"(C) The Administrator may, pursuant to regulations which the Administrator shall prescribe, waive the discontinuation under this paragraph of payments to a veteran with respect to not more than 60 days of care of the veteran during any calendar year if the Administrator determines that a waiver of such discontinuation is necessary in order to avoid a hardship for the veteran.".

(2) Not later than 60 days after the date of the enactment of this Act, the Administrator shall prescribe regulations pursuant to subparagraph (C) of section 3203(b)(1) of title 38, United States Code, as added by subsection (b).

**Mr. COHEN.** Mr. President, the amendment that I am offering today, along with Senator SIMPSON and Senator CRANSTON, is intended to begin to change an inequitable aspect of the Veterans' Administration compensation system which operates against mentally incompetent disabled veterans.

Before I explain why I believe that it is necessary to offer this amendment, I want to extend my sincere gratitude to both Senator SIMPSON and Senator CRANSTON for the interest that they have taken in this matter and for the compassion that they have shown in agreeing to accept this amendment as part of the VA compensation bill that is before us today US TODAY.

Mr. President, some months ago, I was contacted by a constituent from northern Maine who is the father of a 100-percent service-connected disabled Vietnam veteran and who related to me the inequitable situation that his son is trapped in under the current law.

This man and his wife act as the fiduciary for their son's affairs because the veteran, who is diagnosed as chronic schizophrenic, is classified as incompetent by the VA due to the fact that he is unable to manage his financial affairs.

Although the veteran requires periodic, temporary inpatient care for his psychological condition at the VA medical center at Togus, ME, his father has certified to me that his son has improved to a stage of independent living with his parents since his discharge from the service in 1971, and that he now spends most of his life outside institutions.

This veteran has been declared incompetent because he needs guidance on financial matters, but he does have his own checking account and can supervise $100 per week through it. The larger amount of his monthly compensation check is held by his parents in a joint account which pays his utilities, rent, and various time payments on such things as his automobile.

Under existing law, each time this veteran needs to become an inpatient at Togus, his compensation is cut off because his estate totals more than $1,500 and because he has no dependents. The financial obligations that he has assumed, to encourage an active life outside of an institution, continue.

When this veteran is discharged from the hospital, usually within a few days, his benefits are restored by the VA. No other group of disabled veterans is subject to this kind of estate-limitation requirement. The requirement is unfair, subjects veterans who are trying to live outside of VA institutions to hardships which no other veteran must endure, and produces an extremely complicated relationship between these incompetent veterans and the VA.

Because the compensation system cannot adequately adjust to the requirement that payments be discontinued and reinstated several times each year, these veterans end up owing the Government money as a result of regular overpayments by the VA. This situation has gotten to the point where my constituent cannot afford to go to Togus for treatment of his service-connected disability.

Beyond this hardship, incredibly, the $1,500 estate limitation was established, and has not been adjusted, since 1933. If this limitation was inflated, using the Consumer Price Index as a guide, to 1984 levels—as Congress has done over the years for VA disability compensation and dependency and indemnity compensation—the estate limitation would be slightly higher than $12,000, a figure which I submit would be a much more equitable one for these veterans to be subjected to.

The general counsel's letter explains that the current law was intended to protect the integrity of the VA compensation system in situations where mentally incompetent veterans have all of their needs met by a tax-supported institution. As a result of these veterans spending their lives in institutions these veterans may accrue large estates from the accumulation of their compensation payments because they incur no significant expenses to consume their monthly benefits.

In many cases, these estates have been claimed after the veteran's death by people who had contributed nothing to the care of the veteran over all of the years of institutionalized care.

When this law was written, in 1933, a common diagnosis for mentally ill veterans was a life of institutionalized care. Today, the treatment is different and many mentally incompetent veterans are encouraged to spend as much time as they can outside of institutions in order to expedite their recovery and their ability to live as contributing members of our society.

The Maine veteran whose case I have described is subject, along with an unknown number of other similarly disabled veterans, to an outdated anomaly in existing law that my amendment will begin to change.

When I first asked Senator SIMPSON and Senator CRANSTON if this inequitable law could be addressed in this compensation bill, it was my intention to both increase the 1933, $1,500 estate limitation to a more reasonable amount and waive the requirements of section 3203(b)(1) when mentally incompetent veterans are inpatients for only short periods of time.

The amendment that we are offering today is a compromise of my request and requires the Administrator to develop regulations that would remove the hardship imposed by existing law for those incompetent veterans who are inpatients for not more than 60 days of each calendar year.

I am grateful that this change will be made this year, but I want to state clearly that it is my intention to go even further in this area next year.

Because it is unclear how many other mentally incompetent veterans must also give up the disability compensation that I believe they are entitled to—due to the limitations imposed by section 3203(b)(1)—and because of the unknown budgetary impact of the changes that I had originally proposed, the Committee on Veterans' Affairs wisely decided that this amendment should be an interim step in changing this inequitable portion of VA compensation law.

While I support this cautious approach at this time, I am pleased that Senator SIMPSON and Senator CRANSTON see the need for the VA to report to the committee, once the next Congress convenes, how many mentally incompetent veterans, with no dependents, and with estates valued over $1,500, there are in the country today so that we can pursue this issue.

I thank the distinguished chairman and ranking member of the Committee for their support in this matter.

**Mr. SIMPSON.** Mr. President, I wish to first note that I appreciate the intentions and concerns of the Senator from Maine. I always enjoy working with him and have been impressed with his involvement and attention to matters affecting the concerns of our Nation's veterans. The committee bill, S. 2736, contains a provision that would address the concerns of certain single veterans who are rated as incompetent. The committee bill would exclude the value of the veteran's home from his estate during the period of hospitalization or institutionalization at Government expense, unless there is no reasonable likelihood that the veteran will again reside in his or her home. Under current law, a single incompetent veteran would have his or her home considered within the $1,500 limit of the veteran's estate. That veteran's pension or compensation benefits would be discontinued and not be reinstated until the estate is reduced to $500 during any period of institutionalization. The exclusion of the home from this computation of the veteran's estate is intended to provide relief for veterans who own their homes and need periods of institutionalization. I do understand the motives of Senator COHEN who is attempting to deal with veterans who may be renting a home, yet still need to make payments while institutionalized and would not benefit from the above-mentioned provision.

The VA has very little information on the numbers of such veterans and the circumstances surrounding their lives in and out of hospitals. Therefore, it is very difficult to determine the need for a change in the current law which, as Senator COHEN has noted, was designed to protect the veteran from possible abuses by the fiduciary or others. Therefore, I have agreed to accept Senator COHEN's modified amendment. I certainly do endorse his desire to accumulate more information from the VA on incompetent veterans and have a better understanding of the frequency of periods of hospitalization, whether it is for their mental disability or other health problems, the average lengths of stay in institutions and the impact of the income ceiling for single incompetent veterans with respect to their attempts to live independently. Senator COHEN's modified amendment would provide for regulations to allow for a period of up to 60 days of hospitalization during a year during which time the veteran could be hospitalized without having VA payments reduced. This will be a first step in gathering data on the numbers of such veterans and the circumstances surrounding the hospitalizations. I appreciate Senator COHEN's willingness to compromise on his original amendment. I am in agreement with Senator COHEN that the VA let us know in writing, early in the next Congress, how they will begin to gather the information which I have mentioned as well as that which Senator COHEN has noted.

**Mr. CRANSTON.** Mr. President, I, too, want to thank the distinguished Senator from Maine [Mr. COHEN] for his interest in this matter and his willingness to work with the committee in fashioning an appropriate interim approach to resolve it. I'd also like to note that I share his concerns regarding the provisions of existing law as they affect veterans who have been declared incompetent. It would be my hope that in the next Congress the committee could make a comprehensive review of the provisions relating to incompetents' estates with a view toward updating and revising provisions that are obsolete, outmoded, or unnecessary. In any event, I can assure the Senator that I have requested the minority staff of the committee to initiate such a review.

**The PRESIDING OFFICER.** The question is on agreeing to the amendment.

The amendment (No. 6809) was agreed to.

**Mr. STEVENS.** Mr. President, I move to reconsider the vote by which the amendment was agreed to.

**Mr. BYRD.** I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### AMENDMENT NO. 6818

(Purpose: To provide for increased servicemen's group life insurance coverage for certain members of the Armed Forces)

**Mr. STEVENS.** Mr. President, I send an amendment to the desk on behalf of Senators SIMPSON, CRANSTON, and Proxmire and ask for its immediate consideration.

**The PRESIDING OFFICER.** The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 6818.

On page 40, between lines 20 and 21, insert the following new section:

SEC. 504. (a) Section 767 is amended by adding at the end the following new subsection:

"(e) Notwithstanding any other provision of this section, any member insured under this section who has served for five continuous years as a member of a uniformed service or the Ready Reserve shall have the option to obtain additional coverage of $5,000, $10,000, or $15,000 if the member—

"(1) submits a written application and proof of good health; and

"(2) complies with such other terms and conditions as may be prescribed by the Administrator.".

(b) Section 777(a) is amended—

(1) in the first sentence, by striking out "$5,000, $10,000, $15,000, $20,000, $25,000, $30,000, or $35,000" and inserting in lieu thereof "$50,000, or any lesser amount divisible by $5,000,";

(2) in the second sentence, by striking out "No" and inserting in lieu thereof "Except as a result of additional coverage obtained under section 767(e) of this title, no"; and

(3) in the last sentence, by inserting "(or $50,000 if the amount above $35,000 was obtained under such section 767(e))" after "$35,000" each place it appears.

(c) The amendments made by this section shall take effect on January 1, 1985.

**Mr. PROXMIRE.** Mr. President, I rise to support the GI insurance amendment. The reason why this amendment is necessary is quite simple. The amount of insurance available to our military personnel is far, far too limited. At present there is a $35,000 cap in the law on the total amount of insurance for service personnel. This is an inadequate amount for a family that is growing. Federal employees can receive up to five times their annual salary in option life insurance under the Governmentwide program. This is on top of a basic insurance floor. But military personnel have been limited by the $35,000 cap—even though the Senate passed an amendment last year on the Defense authorization bill raising the cap to $100,000.

Mr. President, the Department of Defense fifth quadrennial review of military compensation urged that the optional insurance program be increased to $50,000 as part of a comprehensive package of benefits. The general counsel of DOD wrote to the Congress that:

> We believe it is important to recognize that the men and women serving (in DOD) have similar needs as Federal civilians.

General Counsel Chapman B. Cox went on to endorse the $50,000 cap provided in this amendment.

On August 3, 1984, I wrote the chairman of the Senate Committee on Veterans' Affairs indicating my interest in this legislation. Consultations between our staffs over the succeeding months led to this amendment which incorporates the basic thrust of my original proposal although it is not as inclusive as I might have desired. But recognizing the concerns of the chairman about contingent liabilities during wartime, and wishing to cooperate with the Senator from Wyoming who is an authority in this field, I support the compromise language offered by the committee on my behalf and urge that it be accepted by the Senate.

Mr. President, I ask that a letter from Secretary of Defense Caspar Weinberger supporting this amendment be printed in the RECORD.

The letter follows.

THE SECRETARY OF DEFENSE,
*Washington, DC, September 27, 1984.*

Hon. WILLIAM PROXMIRE,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR: Thank you for your letter of August 29, 1984, advising that you plan to offer an amendment to the Veterans Compensation Amendments Bill for fiscal year 1985 which would increase maximum coverage under the Servicemen's Group Life Insurance (SGLI) program from $35,000 to $50,000. We have long supported this Veterans' Administration program offering valuable insurance protection to the men and women of the Services.

The recently completed Fifth Quadrennial Review of Military Compensation (QRMC) conducted an analysis of the "military estate program" and the report of that review was forwarded to the Congress in April 1984. One of the items studied was the SGLI. It was reconfirmed that the program fulfills a crucial need in forestalling economic hardship to survivors in the event of a member's untimely death. As a result of that review, we recommended that the amount of maximum coverage be increased from $35,000 to $50,000, similar to your initiative.

The SGLI is an extremely successful program—over 99 percent of members participate. In many instances, however, this is the only insurance protection carried. Unfortunately, the current coverage afforded by SGLI is insufficient for many midcareerists especially those with family responsibilities. We know that the average amount of life insurance per family in the United States is now about $56,000—much more than the coverage available under SGLI. An increase in coverage would allow members to structure their insurance protection better in relation to their family obligations, from a maximum of $50,000 to a lesser amount in $5,000 increments.

Although more than a simple "employee/employer" relationship exists between members and the Government, we still have an obligation to provide programs responsive to member needs. In the federal civilian employee community, the insurance program provides basic coverage equal to salary level plus $2,000, optional $10,000 coverage, and additional coverage in multiples of salary. Unlike the SGLI, a portion of the civilian program costs are assumed by the Government on a continuing basis. While we recognize the differences between the two programs, we believe that the Government has no less responsibility to provide a reasonable survivor insurance program for military members. The SGLI program is specifically designed, and has been enhanced from time to time, to meet that responsibility. As an "employer," we do advertise the SGLI program as an available benefit for a service commitment, especially for the Reserve Components. Faced with a declining youth market and increased competition from the private sector, we must be able to assure that a military profession does not become a liability to the surviving family in the event of death.

Unlike most federal programs, the SGLI is a program self-supported by the premiums of members. The only costs assumed by the Government are those attributed to the extra hazard of military service resulting from combat. As the report of the 5th QMRC points out, no such costs have occurred since 1974. In the absence of armed conflict or an abnormal military mortality experience, we would not expect that significant costs would be assumed by the Government.

I appreciate your efforts to enhance the SGLI program for the benefit of the men and women serving in our Nation's defense.

Sincerely,

CASPAR WEINBERGER

**The PRESIDING OFFICER.** The question is on agreeing to the amendment.

The amendment (No. 6910) was agreed to.

**Mr. STEVENS.** Mr. President, I move to reconsider the vote by which the amendment was agreed to.

**Mr. BYRD.** I move to lay that motion on the table.

The motion to lay on the table was agreed to.

**The PRESIDING OFFICER.** The question is on agreeing to the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

**Mr. SIMPSON.** Mr. President, it gives me great pleasure to speak today, in strong support of S. 2736, the proposed Veterans' Administration Benefit Rate Increase and Program Improvement Act of 1984, which was unanimously ordered reported by the Committee on Veterans' Affairs with a title amendment and an amendment in the nature of a substitute on July 25, 1984, and reported to the full Senate on September 17 of this year. I strongly urge my colleagues to join me in assuring the passage of this very important legislation for our Nation's veterans.

The first provision contained in the committee bill is a 4.7-percent, across-the-board, cost-of-living increase in the rates of disability compensation and dependency and indemnity compensation, effective December 1, 1984. The 4.7-percent rate increase contained in the bill as introduced, was based on the estimate by the Congressional Budget Office, of the projected Consumer Price Index as of December 1, 1984. Since that time, however, because of a favorable change in economic conditions, it is estimated that the rate of inflation will be significantly less than estimated on December 1 of this year. The committee bill contains a provision which would require the Administrator of Veterans' Affairs to compute and to pay alternative rate increases based on the actual increase in the Consumer Price Index as of December 1, 1984, if that rate is not 4.7 percent. I strongly support this alternative rate provision since it truly reflects the meaning of a cost-of-living adjustment [COLA]. The COLA would be based on the actual rate of inflation on December 1, 1984, rather than an estimated inflation rate, made months prior to the December effective date, which may have dramatically changed over the course of time.

Mr. President, the committee bill would provide for a number of other rate increases including a 10-percent rate increase for all VA education programs effective October 1, 1984. The committee bill would provide 10-percent rate increases for the VA's automobile-assistance allowance which provides a one-time grant to certain severely disabled service-connected veterans to assist them in the purchase of an automobile as well as a 10-percent increase in the specially adapted housing assistance, "wheelchair home," program and in adapted housing assistance to certain veterans suffering from service-connected total blindness or the loss or loss of use of both upper extremities. In view of the time since the last increase, the committee believed that they were warranted and reasonable.

There are a number of additional provisions included in the committee bill which would improve existing VA programs and benefits. I would like to address several of these proposed legislative changes which the committee recommends to meet the needs of our Nation's veterans by providing employment incentives to severely disabled and certain disadvantaged veterans. These provisions are designed to encourage veterans who are currently unemployed to seek and maintain employment in order to become productive and responsible members of society. I wish to note at this time that it is my intent that any fiscal year 1985 costs incurred by the implementation of the following two provisions regarding trial-work pilot programs that I will address—section 110 and section 401 of the committee bill—be absorbed within funds already appropriated to the VA for fiscal year 1985.

The first such provision in the committee bill would establish a 3-year trial-work period pilot project which could be extended 1 year. A service-connected veteran who has been rated 100-percent disabled on account of individual unemployability [IU] could work for a period of 12 months without losing his or her IU rating. During the 12-month trial-work period, the VA can take into account the veteran's work performance in assessing whether or not the veteran is employable. However, to remove the veteran's concern that his or her IU rating might be removed under circumstances where employment security is uncertain, the committee bill provides that if the veteran's income falls below $300 in any month during the first year after the trial-work period, the veteran's IU rating would be restored at the beginning of that month. Such IU-rated veterns have been determined to be unable to secure or follow a substantial gainful occupation as a result of service-connected disabilities. These determinations are somewhat subjective and I believe, that of the approximately 85,000 veterans with IU ratings, some may wish to return to a work environment and with some limited rating protection would be encouraged to do so. Therefore, the committee bill is designed to determine whether a limited protection of the IU rating would provide an incentive for IU-rated veterans have been deter- The committee bill is also designed to provide a more substantial link for IU-rated veterans with the VA's vocational rehabilitation program in order to assist the disabled veteran in job training and placement. The committee envisions that this pilot project would provide certain evaluation, counseling, training, and placement services when appropriate. It is hoped that such a link would be beneficial both to such seriously disabled veterans who wish to return to work as well as to the compensation program itself. If these unemployed veterans can be retrained and returned to work, the veteran's actual schedular ratings would be restored. As a result, less compensation would be paid and the veteran's self-esteem and self-worth would be greatly enhanced by the demonstration of his or her ability to maintain employment in spite of being seriously disabled.

Under the committee bill, veterans who are newly rated as individually unemployable would be required to undergo an evaluation of rehabilitation potential. This new requirement is designed to ensure that the veteran would be given every opportunity to remain employed or be retrained for another occupation more appropriate to the limits of such veteran's disabilities. I believe strongly that it is important to ensure that the VA, in the process of these rating evaluations, not overlook possible employment potential that the VA rating examiner, who is not trained in employment and rehabilitation, may not be aware of. Therefore, the committee bill would provide further that the IU-rated veteran undergo an evaluation to determine feasibility for pursuing a program of vocational rehabilitation under chapter 31 of title 38. If it is determined that the veteran could benefit from such a plan, the veteran would be required to participate in the program. If the veteran does not comply, his IU rating would be reviewed with that noncompliance taken into consideration. This requirement is limited to actively encourage veterans for whom it has been determined by a vocational rehabilitation specialist that a vocational rehabilitation program would be feasible to take full advantage of the assistance available to them.

I support this provision because I believe that service-connected veterans with very serious disabilities may still be able to be employed as productive citizens and should be given every opportunity to be trained, or retrained, in a field that is in line with his or her abilities, and helped in every way possible to reach the goal of substantial, gainful employment. The report that is due the end of this pilot program is intended to advise the committee on the results of the program.

The committee bill contains another trial-work program for veterans rated totally and permanently disabled for purposes of VA pension. The same concept underlies this provision and its report requirement—that is, an attempt to determine whether non-service-connected veterans in receipt of VA pension would return to work if their disability status and health-care benefits are protected for a limited period of time. These veterans are often catastrophically disabled and the possibility of losing their VA health-care eligibility may stand in the way of their attempts to return to work. This pilot project would be open for new participants during a 3-year period and would be subject to a 1-year extension if determined necessary by the Administrator. My support for this test program is based on my desire to learn if certain incentives would result in veteran pensioners returning to gainful employment instead of remaining on the pension rolls.

Another provision contained in this legislation is a 1-year extension of the veterans' readjustment appointment [VRA]. The VRA program was established to permit certain disabled Vietnam-era veterans and educationally disadvantaged Vietnam-era veterans to be given excepted appointments in the Federal civil service. I have agreed reluctantly to provide a 1-year extension of this program, which was established in 1970, when as many as 1 million men and women a year were leaving the service, aggravating an already serious unemployment problem among Vietnam veterans. This program has been highly successful in achieving its goal to assist these veterans by making it possible for them to be hired noncompetitively into the Federal civil service and to develop additional skills through a program combining education and training with the opportunity for a regular career appointment.

During the last few years, there has been a dramatic change in the unemployment rate of Vietnam-era veterans. In fiscal year 1983, the unemployment rate for male wartime veterans averaged 7.3 percent. Nonveteran males had an average unemployment rate of 11.8 percent during the same period. This is a dramatic contrast to early 1971 when unemployment among young veterans was reaching as high as 16 percent among veterans 20 to 24 years old. I wish to note further that in 1982, male Vietnam-era veterans under age 45 had a median educational level of 13 years and a median income of $20,190. Nonveteran males of similar age had a median education level of 12.9 years, but a median income of only $13,410. A comparison of the distribution of educational attainment for Vietnam-era veterans and nonveterans shows that 92 percent of the Vietnam-era veterans had completed high school while 82 percent of similarly aged nonveterans had done so.

Additionally, the Department of Defense currently provides service members with broader educational and training programs than those that were available during the Vietnam era. Therefore, recently discharged veterans who served during that period are better prepared both economically and educationally to readjust to civilian life.

In supporting a 1-year extension for this VRA program, I wish to note that my support for this type of program during its initiation and during the period of high unemployment for wartime-era veterans has been very strong. However, in my view, it is time to phase down this program and reach closure on an era during which Vietnam veterans were disadvantaged. I am pleased that so many Vietnam-era veterans have been successful in their pursuit of higher education and have been able to secure higher median incomes than their nonveteran counterparts. That is exactly the results we wish to see and I applaud the part that the VRA program played in getting veterans back to work. It is comforting to know that the need for such programs does indeed lapse and that they are able to meet the goals for which they were designed.

The final provision of the committee bill that would provide targeted attention on veterans who are unemployed is the provision which would provide an extension of the period of time under the Emergency Veterans' Job Training Act [EVJTA] during which funds already appropriated will remain available. The committee bill would extend funding availability by 1 year to ensure that payments can be paid to employers for the entire length of the training programs. The provision would not authorize any additional appropriations or extend the time for applying for the program, but simply extends the time that already appropriated funds may remain available.

EVJTA, which was enacted in August 1983, was crafted to provide a one-shot boost to veterans who were chronically unemployed, by providing payments to employers who would hire and train such long-term unemployed Korean conflict and Vietnam-era veterans. The program got off to a slow start since the initial funding was not made available to the VA until the end of November 1983. Therefore, the committee bill would provide an additional opportunity for the program to meet the needs of such veterans and postpones by 6 months, from March to September 1985, the date by which a veteran must begin training under the program. The committee bill also would extend the lifetime from 60 to 90 days of the certificate of eligibility for a veteran who has been determined eligible for the program. This would enable the veteran to have more time during the life of the certificate to look for a job.

The trial-work periods for IU-rated veterans with service-connected disabilities and VA pensioners, the VRA extension, and the enhancements to the EVJTA program are designed to improve and enhance the capability of our Nation's veterans to return successfully to the world of work.

There are other provisions of the committee bill which are more fully discussed in the committee report. In order that the Senate might have the benefit of a more thorough description of the provisions of S. 2736, I ask unanimous consent that the committee's summary of the provisions contained in the committee report be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SIMPSON. Mr. President, we also intend to offer today, as part of an accepted committee amendment to S. 2736, several provisions which have been worked out and agreed to by the committee's ranking minority member, my colleague from California [Senator ALAN CRANSTON]. This amendment includes an initiative by my good friend, Senator BILL COHEN concerning incompetent veterans and a proposal by the very able and consistent Senator PROXMIRE with respect to a VA insurance program, serviceman's group life insurance [SGLI].

Mr. President, I wish to express by deep appreciation for the continuing worthwhile efforts of my fine friend from California [Mr. CRANSTON], the ranking minority member of the committee who has been so very instrumental in working with me to work out the development of the committee bill. I also wish to extend my thanks to the committee staff members who have worked so tirelessly on this legislation, especially my extraordinary chief counsel and staff director, Anthony Principi, his deputy and legislative director, Julie Susman, Kathleen McTighe, Jody Sanders, Becky Hucks, Kay Eckhardt, and Jim MacRae. As usual and always, I wish to note the outstanding contributions of the minority chief counsel, Jonathan Steinberg, and his fine staff, Edward Scott, Babette Polzer, and Ingrid Post.

Mr. President, the provisions of S. 2736, containing the proposed COLA for VA compensation and DIC recipients and employment incentives are most important to our Nation's most deserving veterans, those with service-connected disabilities, their dependents, and survivors, and those who are unemployed. I strongly urge that my colleagues join with me in supporting the bill.

### EXHIBIT 1

### INTRODUCTION

On June 7, 1984, the Chairman of the Committee, Senator Simpson, introduced two measures for himself and Senator Cranston, the Committee's Ranking Minority Member. The first measure, S. 2736, would provide for a 4.7-percent increase in the rates of disability compensation and dependency and indemnity compensation (DIC). The second measure, S. 2737, would provide for a 10-percent increase in the rates of subsistence and educational assistance allowances for veterans and eligible persons pursuing education or training programs and the rates of subsistence allowances for veterans pursuing VA rehabilitation programs and would also provide a $2 increase in reporting fees paid to educational institutions of training establishments.

Earlier, on February 7, 1984, Senator Cranston, together with Senators Randolph, Matsunaga, and DeConcini, introduced S. 2267, which would increase by 10 percent the maximum amount of the automobile assistance grant for certain service-connected disabled veterans. Also, on February 7, Senator Cranston, joined by Senators Randolph, Matsunaga, DeConcini, and Byrd, introduced S. 2268, a measure to extend for 3 years the period during which veterans readjustment appointments may be made.

On March 20, 1984, Senator Cranston joined by Senators Randolph, Matsunaga, DeConcini, and Sarbanes introduced S. 2451, which would increase by 17 percent the maximum amount of the specially adapted housing assistance grants for veterans with certain severe service-connected disabilities; would increase by 20 percent the maximum amount of special housing assistance for service-connected disabled veterans who are blind or who have lost, or lost the use of, both upper extremities; and would increase by 27 percent the maximum amount of the VA home loan guaranty entitlement.

On June 13, 1984, Senator Cranston introduced two measures. The first measure, S. 2759, would provide for periods of trial work for veterans who are assigned service-connected total disability ratings by reason of unemployability, during which the 100-percent disability payments would continue even though the veteran was working. The second measure, S. 2760, cosponsored by Senator DeConcini, would extend by 6 months the period of time during which an eligible veteran may apply for a job training program and the date by which veterans must begin training under the Emergency Veterans' Job Training Act of 1983.

On June 27, 1984, Senator Simpson conducted a Committee hearing on S. 2736 and related measures pending before the Committee. Testimony was presented by John W. Hagan, Jr., Deputy Benefits Director of the Veterans' Administration, accompanied by other representatives of that Agency and by representatives of The American Legion, the Veterans of Foreign Wars, the Disabled American Veterans, the Paralyzed Veterans of America, and the Vietnam Veterans of America.

After reviewing the testimony received at the June 27 hearing, the Committee met in open session on July 25, 1984, to consider the provisions of S. 2736 and other measures. The Committee voted unanimously to order S. 2736 reported with a title amendment and an amendment in the nature of a substitute, derived in part from the provisions of S. 2736, S. 2737, S. 2267, S. 2268, S. 2451, S. 2759, and S. 2760, plus two legislative proposals submitted by the Veterans' Administration.

Subsequently, the Committee voted unanimously, by a poll completed on September 5, 1984, to incorporate two provisions which were previously part of S. 2514, the proposed "Veterans' Administration Health Care Amendments of 1984", as reported by the Committee but which were deleted from that bill on the motion of the Committee prior to Senate action on S. 2514 on August 9, 1984. These provisions originated in S. 2269 and Amendment No. 2850 to S. 2269. On February 7, 1984, Senator Cranston, together with Senators Randolph, Matsunaga, and DeConcini, introduced S. 2269. As introduced, section 2 of S. 2269 would have expanded the definition of the Vietnam era for the purposes of title 38, United States Code, so as to include the period beginning on July 8, 1959, and ending on August 4, 1964, for those who served in Vietnam at any time during that period. On March 27, 1984, Senator Cranston, with Senator Matsunaga's cosponsorship, submitted Amendment No. 2850, to S. 2269. Amendment No. 2850 included a provision that would have specified that any remuneration received by VA patients in a rehabilitation therapy program under section 618 of title 38, United States Code, shall not be counted as income for the purpose of VA pension.

These two provisions—the only provisions of S. 2514 as reported that involved entitlement spending—were deleted from S. 2514 and incorporated into the Committee bill solely to obviate the need for a waiver for S. 2514 of section 303(a) of the Congressional Budget Act of 1974, under which it is not in order for the Senate to consider legislation providing new entitlement spending in a fiscal year until the Congress has adopted a first concurrent resolution on the budget for that fiscal year. Since the Congress had not yet adopted a first concurrent resolution on the fiscal year 1985 budget when S. 2514 was brought before the Senate, a Budget Act waiver would have been necessary as to both of these provisions in that measure. Since S. 2736 proposed a cost-of-living increase and other adjustments in VA entitlements which will require a Budget Act waiver if the first resolution on the fiscal year 1985 budget is not adopted by the time this bill comes before the Senate, the Committee decided to include these two other provisions in S. 2736 and thereby propose only one Budget Act waiver resolution.

### SUMMARY OF S. 2736 AS REPORTED

S. 2736 as reported (hereinafter referred to as the "Committee bill") has six titles: Disability compensation and dependency and indemnity compensation; Veterans' Administration rehabilitation and education programs; Veterans' employment programs; Veterans Administration non-service-connected disability pension; Other benefit rate increases; and Miscellaneous provisions, as follows:

### TITLE I: DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION

### *Part A—Rate Increases*

Part A of this title includes amendments to chapters 11 and 13 of title 38, United States Code, which would provide, effective December 1, 1984, a 4.7-percent increase (the same increase that the Congressional Budget Office originally estimated this year will be provided to Social Security recipients and VA pension beneficiaries effective December 1, 1984) in:

(1) basic compensation rates for service-connected disabled veterans and, generally, in the rates payable for certain severe disabilities.

(2) the allowances for spouses, children, and dependent parents paid to service-connected disabled veterans rated 30-percent or more disabled;

(3) the annual clothing allowance paid to veterans whose compensable disability requires the use of a prosthetic or orthopedic appliance (including a wheelchair) that tends to tear or wear out clothing; and

(4) the dependency and indemnity compensation (DIC) rates paid to:

(a) surviving spouses of veterans whose deaths were service connected;

(b) surviving spouses for dependent children and surviving spouses who are so disabled as to be in need of regular aid and attendance or to be permanently housebound; and

(c) the children of veterans whose deaths were service connected where no surviving spouse is entitled to DIC, the child is age 18 through 22 and attending an approved educational institution, or the child is age 18 or over and became permanently incapable of self-support prior to reaching age 18.

If the percentage increase under the Social Security Act, effective December 1, 1984, is not 4.7 percent, the Committee bill would provide that, in lieu of the 4.7-percent rate increases, the Administrator of Veterans' Affairs shall compute and pay alternative increased rates consistent with the rate increase under the Social Security Act.

### *Part B—Compensation Program Amendments*

Part B of this title includes amendments to chapter 11 of title 38, United States Code, in the form of two new sections which would:

(1) Establish a 3-year trial-work pilot program (which the Administrator could extend to 4 years) for veterans who are assigned service-connected total disability ratings by reason of individual determinations of unemployability ("IU ratings"). Under the pilot program, a veteran with an IU rating would have the opportunity to participate in a 12-month trial work period and would be eligible for various counseling and placement services. Not later than 39 months after the enactment date, the Administrator would be required to report on the results of the first 3 years' experience under the pilot program.

(2) Provide that all veterans receiving an IU rating must undergo a vocational rehabilitation evaluation, if eligible therefor, and pursue a VA vocational rehabilitation program if one is developed.

## TITLE II: VETERANS' ADMINISTRATION REHABILITATION AND EDUCATION PROGRAMS

### *Part A—Rate Increases*

Part A of this title includes amendments to chapters 31, 34, 35, and 36 of title 38, United States Code, effective October 1, 1984, which would provide a 10-percent rate increase for all Veterans' Administration education programs, including: rehabilitation subsistence allowances for veterans with service-connected disabilities; educational assistance allowances and special supplementary (tutorial) assistance for eligible veterans; training assistance allowances for apprenticeship and other on-job training; and educational assistance and special training allowances for eligible survivors and dependents. Reporting fees to educational institutions would also be increased by $2.

### *Part B—Rehabilitation and Education Program Improvements*

Part B of this title includes amendments to chapters 31, 34, 35, and 36 of title 38, United States Code, which would:

(1) Toll the eligibility period for GI Bill and certain other educational benefits and vocational rehabilitation programs for certain veterans and eligible persons who have been prevented from participating in such programs because of alcohol or drug dependence or abuse. (In the case of a veteran with a general discharge, an individual determination that the discharge was under conditions other than dishonorable would be required.)

(2) Repeal a Veterans' Administration reporting requirement pertaining to deceptive advertising practices by educational institutions.

(3) Require the Administrator to consult with the VA's educational advisory committee prior to changing any educational institution requirements for reporting enrollments of GI Bill trainees.

## TITLE III: VETERANS' EMPLOYMENT PROGRAMS

This title includes amendments to chapter 42 of title 38, United States Code, and Public Law 98-77 which would:

(1) Extend the authority for Vietnam-era veterans readjustment appointments for 1 year, provide limited appeal rights during the first year of an appointment, and provide for annual, instead of semiannual, reports on the program.

(2) Amend the Emergency Veterans' Job Training Act of 1983 to extend by 6 months, until September 1, 1985, the date by which veterans previously certified must commence a training program under that Act, to extend to 90 days the lifetime of certifications of eligibility; and to extend the availability of appropriated funds under the program for 1 year.

## TITLE IV: VETERANS' ADMINISTRATION NON-SERVICE-CONNECTED DISABILITY PENSION

This title includes amendments to chapter 15 of title 38, United States Code, which would:

(1) Establish a 3-year pilot program (which the Administrator could extend to 4 years) to allow a permanently and totally disabled veteran pension recipient to participate in a 36-month period of trial work. Veterans participating in the program would be permitted to retain their disability status and eligibility for VA health-care services during their trial work periods. Also, those whose pension is terminated due to income derived from participation in a VA or State vocational rehabilitation program would have an additional 12-month eligibility period for VA health-care services. All income received from employment during the trial work period, with the exception of certain subsistence allowances associated with vocational rehabilitation programs, would be counted in determining the veteran's income for pension purposes. The Administrator would be required to report on the results of the pilot program's first 3 years of implementation not later than 39 months after its effective date.

(2) Require the Administrator to prepare and submit a report on the results of conducting, during the 2-year period following the enactment date, medical examinations of persons awarded VA pension based on their being over age 65 for the purposes of determining their actual percentage disability ratings.

## TITLE V: OTHER BENEFIT RATE INCREASES

This title includes amendments to chapters 21 and 39 of title 38, United States Code, which would provide, effective July 1, 1985, 10-percent increases in the maximum amounts of: the specially adapted housing assistance grant for certain severely service-connected disabled veterans; special housing assistance for service-connected veterans who are blind or have lost, or lost the use of, both upper extremities; and the automobile assistance grant for certain severely disabled, service-connected veterans.

## TITLE VI: MISCELLANEOUS PROVISIONS

This title includes amendments to chapters 1, 17, 51, and 55 of title 38, United States Code, which would:

(1) Expand the definition of the Vietnam era (August 5, 1964, through May 7, 1975) for the purposes of title 38, United States Code, to include the period beginning on February 21, 1961, and ending on August 4, 1964, in the case of those who served in Vietnam during that time.

(2) Require the VA to conduct a 39-month demonstration project (and submit by February 1, 1987, a report on the first 2 years' experience) under which the income received by veterans for their participation in VA incentive-therapy and compensated-work-therapy programs would not be counted as income for the purpose of VA pension programs.

(3) Specify that a veteran's participation in a VA incentive-therapy or compensated-work-therapy program will not be considered a basis for denying or discontinuing a total disability rating for VA compensation or pension purposes.

(4) Establish the last date of school attendance as the termination date for veterans' dependents' allowances for children between the ages of 18 and 23 who are attending school.

(5) Generally exclude the value of an incompetent, single (without dependents) veteran's home when determining the value of the veteran's estate for purposes of the requirement that the veteran's VA benefits be discontinued during a period of institutional care at public expense.

(6) Delete gender references in certain parts of chapter 1 of title 38, United States Code.

## Discussion

## TITLE I: DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION

### Part A—Rate Increases

### *Background*

*Disability compensation*

The service-connected disability compensation program provides monthly cash benefits to veterans who have suffered disabilities during, or as a result of, their service in our Nation's Armed Forces. This program is the highest program priority of the Veterans' Affairs Committee.

The amount paid in individual instances is contingent upon the nature of the veterans' disability or combination of disabilities and the extent to which earning capacity is considered to have been impaired. Compensable disabilities are rated according to the VA's Schedule of Rating Disabilities on a graduated scale ranging from 10- to 100-percent rate. Higher monthly rates are payable to totally disabled veterans with certain specific, very severe disabilities and combinations of disabilities.

The Veterans' Administration disability compensation program in July 1984 provided benefits for 3,252,779 veterans who have service-connected disabilities. This number includes disabled veterans with the following periods of service: 15,520 World War I veterans; 1,085,700 World War II veterans; 225,998 Korean-conflict veterans; and 593,606 Vietnam-era veterans.

The following table shows average costs and caseloads for veterans and survivors:

TABLE 1—COMPENSATION—SUMMARY OF REQUIREMENTS

[Total cost in thousands of dollars]

| | Fiscal year 1983 | | | Fiscal year 1984 | | | Fiscal year 1985 | | |
|---|---|---|---|---|---|---|---|---|---|
| | Average cases | Average benefit | Total obligations | Average cases | Average benefit | Total obligations | Average cases | Average benefit | Total obligations |
| Compensation (total) | 2,616,305 | $3,760 | $9,857,700 | 2,605,300 | $3,791 | $9,875,472 | 2,598,300 | $3,799 | $9,844,300 |
| Veterans (total) | 2,268,146 | 3,532 | 8,010,063 | 2,260,300 | 3,552 | 8,029,382 | 2,255,800 | 3,546 | 7,938,233 |
| Spanish-American War | 3 | 7,000 | 21 | 3 | 7,333 | 22 | 3 | 7,333 | 22 |
| Mexican Border period | 4 | 7,000 | 28 | 4 | 7,500 | 30 | 4 | 7,500 | 30 |
| World War I | 19,645 | 4,195 | 82,410 | 16,800 | 4,212 | 70,759 | 14,700 | 4,252 | 59,650 |
| World War II | 1,124,440 | 3,348 | 3,764,287 | 1,095,000 | 3,364 | 3,683,667 | 1,067,500 | 3,355 | 3,581,105 |
| Korean conflict | 229,929 | 3,973 | 913,511 | 227,600 | 3,992 | 908,512 | 225,193 | 3,987 | 898,789 |
| Vietnam era | 583,132 | 3,636 | 2,120,410 | 591,093 | 3,658 | 2,162,320 | 599,300 | 3,647 | 2,185,527 |
| Peacetime service | 310,945 | 3,632 | 1,129,109 | 329,900 | 3,651 | 1,204,064 | 349,600 | 3,647 | 1,275,008 |
| Survivors (total) | 348,159 | 5,245 | 1,825,957 | 345,000 | 5,288 | 1,824,262 | 342,500 | 5,376 | 1,824,121 |
| Civil War | 3 | 4,874 | 15 | 3 | 5,000 | 15 | 3 | 5,000 | 15 |
| Spanish-American War | 96 | 5,677 | 545 | 80 | 5,700 | 456 | 70 | 5,700 | 399 |
| Mexican Border period | 1 | 7,000 | 7 | 1 | 7,000 | 7 | 1 | 7,000 | 7 |
| World War I | 26,380 | 5,714 | 150,775 | 25,200 | 5,707 | 143,820 | 24,000 | 5,701 | 136,816 |
| World War II | 163,937 | 4,693 | 769,299 | 161,200 | 4,743 | 764,571 | 159,000 | 4,788 | 761,292 |
| Korean conflict | 38,679 | 5,095 | 197,114 | 38,300 | 5,177 | 198,275 | 38,020 | 5,250 | 199,500 |
| Vietnam era | 60,141 | 5,805 | 295,600 | 69,000 | 5,828 | 402,138 | 69,900 | 5,851 | 408,985 |
| Peacetime service | 50,911 | 6,142 | 312,684 | 51,216 | 6,150 | 314,976 | 51,526 | 6,158 | 317,304 |
| Clothing allowance (total) | (66,729) | 325 | 21,720 | (66,600) | 327 | 21,778 | (66,500) | 327 | 21,746 |

Source: Department of Veterans' Benefits, Veterans' Administration, August 1984.

*History of cost-of-living increases*

The Committee periodically reviews the service-connected disability compensation program with a view toward assuring that the benefits authorized provide reasonable and adequate compensation for disabled veterans and their families. Congress has traditionally acted periodically to provide cost-of-living increases in compensation benefits, in order to assure that those benefits keep pace with inflation.

The following table shows statutory increases in the rates of disability compensation since 1957:

TABLE 2.—HISTORY OF SERVICE-CONNECTED DISABILITY COMPENSATION INCREASES, 1957 TO PRESENT

| Sec. 314, title 38, subsection— | Public Law 85-168, Oct. 1, 1957 monthly rate | Public Law 87-645, Oct. 1, 1962 | | Public Law 89-311, Oct. 31, 1965 | | Public Law 90-493, Jan. 1, 1969 | | Public Law 91-376, July 1, 1970 | | Public Law 92-328, Aug. 1, 1972 | | Public Law 93-295, May 1, 1974 | | Public Law 94-71, Aug. 1, 1975 | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | Percentage increase | Monthly rate | Percentage increase | Monthly rate | Percentage increase | Monthly rate | Percentage increase | Monthly rate | Percentage increase | Monthly rate | Percentage increase | Monthly rate | Percentage increase | Monthly rate |
| (a) | $19 | 5.3 | $20 | 5.0 | $21 | 9.5 | $23 | 8.7 | $25 | 12.0 | $28 | 15 | $32 | 9.4 | $35 |
| (b) | 36 | 5.6 | 38 | 5.3 | 40 | 7.5 | 43 | 7.0 | 46 | 10.8 | 51 | 15 | 59 | [illegible] | [illegible] |
| (c) | 55 | 5.5 | 58 | 3.4 | 60 | 8.3 | 65 | 7.7 | 70 | 10.0 | 77 | 15 | 89 | 10.1 | 98 |
| (d) | 73 | 5.5 | 77 | 6.6 | 82 | 8.5 | 89 | 7.9 | 96 | 10.4 | 106 | 15 | 122 | 9.8 | 134 |
| (e) | 100 | 7.0 | 107 | 5.6 | 113 | 8.0 | 122 | 10.7 | 135 | [illegible] | 149 | 18 | [illegible] | 9.9 | [illegible] |
| (f) | 120 | 6.7 | 128 | 6.3 | 136 | 8.1 | 147 | 10.9 | 163 | 9.8 | 179 | 18 | [illegible] | 11.9 | [illegible] |
| (g) | 140 | 6.4 | 149 | 7.4 | 160 | 8.1 | 173 | 10.5 | 191 | 9.9 | 210 | 18 | [illegible] | 12.0 | [illegible] |
| (h) | 160 | 6.3 | 170 | 9.4 | 186 | 8.1 | 201 | 10.9 | 223 | 9.4 | 244 | 18 | 289 | [illegible] | [illegible] |
| (i) | 179 | 6.7 | 191 | 9.4 | 209 | 8.1 | 226 | 10.6 | 250 | 10.0 | 275 | 18 | 325 | [illegible] | [illegible] |
| (j) | 225 | 11.1 | 250 | 20.0 | 300 | 33.3 | 400 | 12.5 | 450 | 10.9 | 499 | 18 | 584 | [illegible] | [illegible] |
| (k) | | | | | | | | | | | | [illegible] | 52 | [illegible] | 52 |
| (l) | 309 | 10.0 | 340 | 17.6 | 400 | 25.0 | 500 | 12.0 | 560 | 10.0 | 616 | 18 | 727 | 12.0 | [illegible] |
| (m) | 359 | 8.6 | 390 | 15.4 | 450 | 22.2 | 550 | 12.0 | 616 | 10.2 | 679 | 18 | 801 | 12.0 | 896 |
| (n) | 401 | 9.7 | 440 | 19.3 | 525 | 19.0 | 625 | 12.0 | 700 | 10.9 | 776 | 18 | 909 | 12.0 | 1,018 |
| (o) | 450 | 16.7 | 525 | 14.3 | 600 | 16.7 | 700 | 12.0 | 784 | 9.0 | [illegible] | 18 | 1,017 | [illegible] | [illegible] |
| (p) | 450 | 16.7 | 525 | 14.3 | 600 | 16.7 | 700 | 12.0 | 784 | 9.9 | 862 | 18 | 1,017 | 12.0 | [illegible] |
| Subsec. (r) "aid and attendance" non-hospitalization: Public Law 85-78[illegible], effective Oct. 1, 1958 | | | | | | | | | | | | | | | |
| (1) | | | | | | | | | | | | | | | |
| (2) | | | | | | | | | | | | | | | |
| Subsec. (s) (housebound cases): Public Law 86-663 effective Sept. 1, 1960 | 150 | 33.3 | 200 | 25.0 | 250 | 20.0 | 300 | 12.0 | 336 | 10.1 | 370 | 18 | 437 | 11.9 | 489 |
| Sec. 362 of title 38 | 265 | 9.4 | 290 | 20.7 | 350 | 28.6 | 450 | 12.0 | 504 | 9.9 | 554 | 18 | 654 | 11.9 | 73[illegible] |

TABLE 2.—HISTORY OF SERVICE-CONNECTED DISABILITY COMPENSATION INCREASES, 1957 TO PRESENT—Continued

| Sec. 315, title 38, subsection— | Public Law 94-433, Oct. 1, 1976 | | Public Law 95-117, Oct. 1, 1977 | | Public Law 95-479, Oct. 1, 1978 | | Public Law 96-128, Oct. 1, 1979 | | Public Law 96-385, Oct. 1, 1980 | | Public Law 97-66, Oct. 1, 1981 | | Public Law 97-306, Oct. 1, 1982 | | Public Law 98-223, Apr. 1, 1984 | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Percentage increase | Monthly rate | Percentage increase | Monthly rate | Percentage increase | Monthly rate | Percentage increase | Monthly rate | Percentage increase | Monthly rate | Percentage increase | Monthly rate | Percentage increase | Monthly rate | Percentage increase | Monthly rate |
| (a) | 8.1 | $38 | 6.6 | $41 | 7.3 | $44 | 9.9 | $48 | 11.0 | $54 | 8.0 | $58 | 6.9 | $62 | 3.5 | $64 |
| (b) | 7.7 | 70 | 6.6 | 76 | 7.3 | 82 | 9.9 | 89 | 11.0 | 99 | 8.0 | 107 | 6.5 | 114 | 3.5 | 118 |
| (c) | 8.7 | 106 | 6.5 | 113 | 7.3 | 121 | 9.9 | 133 | 11.0 | 148 | 8.0 | 161 | 6.8 | 172 | 3.5 | 178 |
| (d) | 8.7 | 145 | 6.6 | 155 | 7.3 | 166 | 9.9 | 182 | 11.0 | 202 | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| (e) | 8.0 | 203 | 6.6 | 216 | 7.3 | 232 | 9.9 | 255 | 14.3 | 291 | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| (f) | 8.1 | 255 | 6.6 | 272 | 7.3 | 292 | 9.9 | 321 | 14.3 | 367 | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| (g) | 7.9 | 307 | 6.6 | 327 | 7.3 | 348 | 9.9 | 382 | 14.3 | [illegible] | [illegible] | 411 | [illegible] | 443 | 3.5 | 458 |
| (h) | 8.0 | 350 | 6.6 | 373 | 7.3 | 400 | 9.9 | 440 | 14.3 | [illegible] | [illegible] | [illegible] | [illegible] | 539 | 3.5 | [illegible] |
| (i) | 8.0 | 391 | 6.5 | 419 | 7.3 | 450 | 9.9 | 495 | 14.3 | 566 | [illegible] | 624 | 7.3 | 648 | 3.5 | [illegible] |
| (j) | 7.9 | [illegible] | 6.6 | 754 | 7.3 | 809 | 9.9 | 889 | 14.3 | 1,016 | [illegible] | [illegible] | 7.4 | [illegible] | 3.5 | [illegible] |
| (k) | 8.0 | [illegible] | 6.6 | 56 | 0 | 56 | 0 | [illegible] | 0 | [illegible] | [illegible] | 1,130 | [illegible] | [illegible] | 3.5 | [illegible] |
| (l) | 8.0 | 879 | 6.6 | 937 | 7.3 | 1,005 | 9.9 | [illegible] | 14.3 | [illegible] | 0 | [illegible] | 0 | [illegible] | 0 | 67 |
| (m) | 8.0 | [illegible] | 6.6 | 1,032 | 7.3 | 1,107 | 9.9 | [illegible] | 14.3 | 1,261 | 11.2 | [illegible] | 7.3 | 1,409 | 3.5 | 1,559 |
| (n) | 8.0 | 1,099 | 6.6 | 1,172 | 7.3 | 1,258 | 9.9 | [illegible] | 14.3 | 1,391 | 11.2 | [illegible] | 7.4 | 1,661 | 3.5 | 1,719 |
| (o) | 8.1 | [illegible] | 6.6 | 1,312 | 7.3 | 1,408 | 9.9 | 1,547 | 14.3 | 1,581 | 11.2 | 1,758 | 7.4 | 1,888 | 3.5 | 1,954 |
| (p) | 8.1 | [illegible] | 6.6 | 1,312 | 7.3 | 1,408 | 9.9 | 1,547 | 14.3 | 1,768 | 11.2 | 1,966 | 7.4 | 2,111 | 3.5 | 2,18[illegible] |
| Subsec. (r) "Aid and Attendance" non-hospitalization: Public Law 85-782 effective Oct. 1, 1958 | | | | | | | | | 14.3 | 1,768 | 11.2 | 1,966 | 7.4 | 2,111 | 3.5 | 2,18[illegible] |
| (1) | | | | | | | | | | | 0 | 67 | 0 | 67 | 0 | 67 |
| (2) | 9 | [illegible] | 6.6 | 563 | 7.3<br>[illegible] | 604<br>900 | 9.9 | 624<br>969 | 14.3<br>14.3 | 759<br>1,130 | 11.2<br>11.7 | 811<br>1,257 | 7.3<br>7.4 | 908<br>1,350 | 3.5<br>3.5 | 935<br>1,397 |
| Subsec. (s) (housebound cases): Public Law 86-663 effective Sept. 1, 1960 | 7.7 | 791 | 6.6 | 843 | 7.3 | 905 | 9.9 | 993 | | | | | | | | |
| Sec. 3[illegible] of title 38 | 8.6 | 190 | 6.6 | 203 | [illegible]<br>7.3 | 175<br>218 | 9.9 | 19[illegible]<br>240 | 14.3<br>14.3<br>14.3 | 1,137<br>219<br>274 | 11.2<br>[illegible]<br>[illegible] | 1,264<br>244<br>30[illegible] | 7.4<br>7.4<br>[illegible] | 1,357<br>262<br>327 | 3.5<br>3.5<br>3.5 | 1,404<br>271<br>338 |

[1] From Oct. 1978. [2] (k) $62 effective Sept. 1, 1981 ([illegible] percent increase).

Source: Department of Veterans' Benefits, Veterans' Administration, August 1984.

### *Dependency and indemnity compensation (DIC)*

The dependency and indemnity compensation (DIC) programs, which supplanted the earlier death compensation program, were established in 1956 with the enactment of the Servicemen's and Veterans' Survivors Benefit Act (Public Law 84-881).

DIC is paid to the survivors—surviving spouses, unmarried children under the age of 18, as well as certain helpless children age 18 or over, childen between the ages of 18 and 23 who are enrolled in school, and certain needy parents—of servicemen or veterans who died on or after January 1, 1957, from: (1) a disease or injury incurred or aggravated in the line of duty while on active duty or active duty training; or (2) an injury incurred or aggravated in the line of duty on inactive duty training; or (3) a disability compensable under laws administered by the VA.

Surviving spouses, children, and parents who are receiving death compensation by reason of a veteran's death occurring before January 1, 1957, may elect to receive DIC benefits in lieu of death compensation. Once they so elect, however, they cannot thereafter, receive death compensation.

DIC is paid to surviving spouses at rates determined by the pay grade—service rank—of the deceased veteran. A higher rate is payable if the surviving spouse is so disabled as to be housebound or in need of regular aid and attendance, and additional amounts are payable for the veteran's surviving children. Children become entitled to DIC where there is no surviving spouse, or where the child age 18 or over has become permanently incapable of self-support before reaching the age of 18, or the child is age 18 to 23 and pursuing an approved course of education. DIC benefits are currently paid to or for 312,840 surviving spouses and children of those who died as a result of their service-connected disabilities. In addition, DIC is paid to 43,843 needy surviving parents of veterans whose deaths were service connected. Under Public Law 95-588, the provisions of chapter 13 of title 38, United States Code, governing the parents' DIC rates, were amended to provide for automatic annual adjustments at the same time and by the same percentage as Social Security benefits.

Under section 410(b) of title 38, benefits are also paid at DIC rates to the surviving spouse and children of veterans whose deaths are not determined to be service connected, where the veteran received compensation at the 100-percent rate over an extended period of time immediately prior to his or her death.

### *Committee Bill Provisions*

The Committee bill provides for a 4.7-percent cost-of-living (COLA) increase, effective December 1, 1984, in the service-connected disability compensation and dependency and indemnity compensation benefit rates. This percentage increase—the same as that, at the time of the Committee's July 25 meeting, the Congressional Budget Office estimated Social Security benefits would be increased this year—is designed to be the same as the cost-of-living adjustments paid to Social Security beneficiaries and VA pensioners eligible for benefits under the new pension program established by Public Law 95-588. If the December 1, 1984, Social Security COLA is greater or less than the 4.7 percent estimated increase, the compensation rate increases would be adjusted accordingly to ensure a uniform cost-of-living rate increase and effective date, based on the actual rate of inflation. In calculating the rate increases, the Committee has rounded to the next higher dollar all amounts of $.50 or more; amounts of less $.50 have been rounded down.

The Committee's rationale for these rate increases, effective December 1, 1984, is set forth at page 12 of the Committee's "Budget Views and Estimates for Fiscal Year 1985", Senate Print 98-165, which was submitted to the Senate Budget Committee on March 16, 1984 (Committee Print No. 2). This effective date conforms with section 108 of Public Law 98-223, which expressed the sense of Congress that COLA's for fiscal years subsequent to 1984 are to take effect on December 1.

### *Disability compensation increases*

The 4.7-percent increase provided for by the Committee bill would apply to the monthly rates of disability compensation under section 314 of title 38, United States Code, except for the monthly rate specified in subsection (k) of section 314; the rates of additional monthly compensation for dependents payable under section 315 to veterans rated 30-percent of more disabled; and the annual clothing allowance under section 362 for disabled veterans who must use prosthetic or other orthopedic appliances, such as wheelchairs, that tend to tear or wear out their clothing. The maximum monthly amounts specified in subsections (k) and (p) of section 314 would also be increased. Those are specified dollar amounts that may not be exceeded in the event that a veteran would otherwise be entitled to a higher amount by reason of entitlement to two or more monthly rates.

The following table shows the August 1984 rates of disability compensation and those proposed by the Committee bill, together with the number of veterans receiving compensation in each category:

TABLE 3.—COMPARISON OF COMPENSATION RATES UNDER PRESENT LAW AND UNDER S. 2736 AS REPORTED

| Applicable subsection of sec. 314, United States Code | Percentage of disability | Increase in monthly rate |  | Number of veterans |
|---|---|---|---|---|
|  |  | From— | To— |  |
| (a) | (10) | $64 | $67 | 897,670 |
| (b) | (20) | 118 | 124 | 356,170 |
| (c) | (30) | 179 | 187 | [illegible] |
| (d) | (40) | 258 | 270 | 183,446 |
| (e) | (50) ¹ | 364 | 381 | 117,981 |
| (f) | (60) ¹ | 458 | 481 | 118,774 |
| (g) | (70) ¹ | 579 | 606 | 66,950 |
| (h) | (80) ¹ | 671 | 703 | 37,664 |
| (i) | (90) ¹ | 755 | 790 | 14,039 |
| (j) | (100) | 1,256 | 1,314 | 127,265 |

¹ Includes cases in which payment is made at the total disability rate due to individual unemployability.

HIGHER STATUTORY AWARDS FOR CERTAIN MULTIPLE DISABILITIES

| Applicable subsection of sec. 314 United States Code | Percentage of disability | Increase in monthly rate |  | Number of veterans |
|---|---|---|---|---|
|  |  | From— | To— |  |
| (k) | Anatomical loss or loss of use of 1 or more creative organ, 1 foot, 1 hand, or both buttocks, or blindness of 1 eye, or complete organic aphonia, or deafness of both ears—for each loss | 67 | 67 |  |
| [illegible] | Maximum limit for veterans receiving payments under (a) to (j) above | 1,539 | 1,612 | 84,187 |
| [illegible] | Maximum limit for veterans receiving payments under (l) to (n) below | 2,161 | 2,260 |  |
| (l) | Anatomical loss or loss of use of both hands, both feet, 1 foot and 1 hand, blindness in both eyes, permanently bedridden or so helpless as to require regular aid and attendance | 1,558 | 1,632 | 7,500 |
| (m) | Anatomical loss or loss of use of 2 extremities so as to prevent natural elbow or knee action with prosthesis in place, or blind in both eyes, either with light perception only or rendering veteran so helpless as to require regular aid and attendance | 1,719 | 1,800 | 4,465 |

HIGHER STATUTORY AWARDS FOR CERTAIN MULTIPLE DISABILITIES—Continued

| Applicable subsection of sec. 314 United States Code | Percentage of disability | Increase in monthly rate |  | Number of veterans |
|---|---|---|---|---|
|  |  | From— | To— |  |
| (n) | Anatomical loss of 2 extremities so near shoulder or hip as to prevent use of prosthesis or anatomical loss of both eyes | 1,956 | 2,048 | 906 |
| (o) | Disability under conditions entitling veteran to 2 or more of the rates provided in (l) through (n), above, no condition being considered twice in the determination, or deafness rated at 60 percent or more in combination with total blindness | 2,186 | 2,288 | 305 |
| (p)(?) | For blindness of both eyes together with bilateral deafness rated at 40 percent or more disabling or total deafness of 1 ear, next higher rate of intermediate rate, respectively, is payable—but compensation may not exceed | 2,185 | 2,288 | 1,870 |
| [illegible] | Anatomical loss or loss of use of three extremities, next higher rate or intermediate rate is payable—but compensation may not exceed | 2,185 | 2,288 | 1,870 |
| (q) | [This subsection repealed by Public Law 90-493] |  |  |  |
| (r)(1) | If veteran entitled to compensation at the rate provided for under (o), above, or at the maximum rate under (p), above, is in need of regular aid and attendance, in addition to such rate | 939 | 982 | 6,173 |
| (2) | If veteran described in (r)(1), above, is in need of a higher level of care by a licensed health care professional or a person under the regular supervision of such a professional, in addition to the rate payable under (r)(1) or (2) | 1,397 | 1,463 | 1,525 |
| (s) | If veteran has a disability rated as total, plus additional disability independently ratable at 60 percent or more, or is permanently housebound | 1,404 | 1,470 | 6,819 |
| (t) | If veteran entitled to compensation under (a) through (j), above, has suffered the service-connected loss or loss of use of an extremity ratable at 60 percent or more and the non-service-connected loss or loss of use of paired extremity, and the latter loss would be rated at 40 percent or more if service connected, in addition to the rate payable under (a) through (j), above | 271 | 284 | 65 |

Department of Veterans Benefits, Veterans Administration, June 1984.
Source: Section 314 of title 38, United States Code, August 1984.

### *Dependents' allowances increases*

Veterans whose disabilities are rated at 30 percent or more may receive additional compensation for the veteran's spouse, children, and dependent parents. Under the Committee bill, those dependents' allowances would also be increased by 4.7 percent. Such dependents allowances are prorated according to the percentage of disability. As of March 1984, the number of dependents for whom veterans received additional compensation was 1,125,291.

The following table shows the current rates of additional compensation for dependents and those that would be provided for under the Committee bill:

TABLE 4.—ADDITIONAL COMPENSATION FOR DEPENDENTS

| | Monthly rate | |
|---|---|---|
| | From— | To— |
| Spouse | $77 | $81 |
| Spouse and child | 128 | 134 |
| No spouse, 1 child | 52 | 54 |
| Each additional child | 41 | 43 |
| Each dependent parent | 62 | 65 |
| Each child age 18 to 22 attending school | 116 | 121 |
| Spouse in nursing home or severely disabled | 139 | 146 |

Source: Section 315 of title 38, United States Code, August 1984.

*Dependency and indemnity compensation increases*

The Committee bill would also provide for a cost-of-living increase of 4.7 percent in DIC rates for surviving spouses and children, which is the same rate of increase provided for service-connected disabled veterans by the Committee bill. Additional allowances for surviving spouses in need of aid and attendance or who are housebound, helpless children age 18 or over, and children between the ages of 18 and 23 attending school would also be increased by 4.7 percent.

The following table shows a comparison of those rates under current law with the rates provided for under the Committee bill:

TABLE 5.—COMPARISON OF MONTHLY DIC RATES UNDER PRESENT LAW AND S. 2736 AS REPORTED

| Base monthly rates to surviving spouses | From— | To— |
|---|---|---|
| Veterans' Pay grade: | | |
| E-1 | $461 | $483 |
| E-2 | 475 | 497 |
| E-3 | 488 | 511 |
| E-4 | 518 | 542 |
| E-5 | 532 | 557 |
| E-6 | 544 | 570 |
| E-7 | 571 | 598 |
| E-8 | 602 | 630 |
| E-9 | 629 | 659 |
| W-1 | 583 | 610 |
| W-2 | 607 | 636 |
| W-3 | 624 | 653 |
| W-4 | 661 | 692 |
| O-1 | 583 | 610 |
| O-2 | 602 | 630 |
| O-3 | 644 | 674 |
| O-4 | 681 | 713 |
| O-5 | 751 | 786 |
| O-6 | 846 | 886 |
| O-7 | 915 | 958 |
| O-8 | 1,003 | 1,050 |
| O-9 | 1,077 | 1,128 |
| O-10 | 1,179 | 1,234 |

Source: Section 411 of title 38, United States Code, August 1984.

TABLE 6.—ADDITIONAL PAYMENTS

| | From— | To— |
|---|---|---|
| Surviving spouse, addition for each child | $53 | $55 |
| Addition if surviving spouse in need of regular aid and attendance | 139 | 146 |
| Surviving child (where no surviving spouse is entitled) | 233 | 244 |
| 2 such children[1] | 336 | 352 |
| 3 such children | 432 | 452 |
| More than 3 children, addition for each additional child | 87 | 91 |
| Addition if such child is helpless | 139 | 146 |
| Helpless child, where surviving spouse is also entitled | 233 | 244 |
| Child attending school, where surviving spouse is also entitled | 118 | 124 |

[1] If there is more than 1 surviving child, an equal share of the total amount is paid to each child.

Source: Sections 411, 413, 414 of title 38, United States Code, August 1984.

The 4.7-percent increase would also be applicable to benefits paid at DIC rates under section 410(b) of title 38, United States Code, to the surviving spouses and children of certain totally disabled service-connected disabled veterans whose deaths were not service connected.

## Part B—Compensation Program Amendments

### *Trial-Work Period Pilot Project*

Section 110 of the Committee bill contains provisions to establish a 3-year pilot project (which the Administrator could extend to 4 years) under which a veteran with a service-connected total disability rating by reason of a individual determination of unemployability ("IU rating") could participate in a one-time period of trial work without losing that rating. This section also contains provisions to make job counseling and related services available to veterans with IU ratings and to require veterans receiving IU ratings after the date of enactment to request—and, if eligible therefor, to undergo—an evaluation under the chapter 31 vocational rehabilitation program. If a vocational rehabilitation program were developed for such a veteran under chapter 31, he or she would be required to pursue it. If he or she did not comply substantially, his or her IU rating would be reviewed, with such noncompliance considered in the review.

*Background and purposes*

Under the VA's compensation program, the service-connected disabilities of veterans are rated, in multiples of 10 percentage points, from zero percent through 100 percent disabling. The schedule of these ratings is designed to reflect the average impairments of earning capacity resulting from particular disabilities. In general, these rating are assigned, according to the VA's schedule of ratings, on the basis of the nature and extent of the disability or combination of disabilities, without regard to whether the particular veteran is or is not actually engaged in a gainful occupation or the level of his or her earnings. However, there is an exception. Under long-standing VA regulations (section 4.16 of title 38 of the Code of Federal Regulations (CFR)) provision is made for assigning to a veteran with a disability or disabilities not rated as totally disabling a 100-percent disability rating if an individualized determination is made that he or she is "unable to secure or follow a substantially gainful occupation as a result of service-connected disabilities." A substantial element of judgment is involved in making these determinations, and consideration is given to the nature of the veteran's service-connected disability, employment history, educational and vocational attainment, and other pertinent factors. At present, there are approximately 85,000 veterans with total disability ratings based on individual unemployability (hereinafter referred to as "IU ratings").

The employability situation of a veteran with an IU rating is subject to periodic review. Thus, for example, if either the veteran's medical condition were to improve or the veteran were to return to work, the unemployability determination could be set aside and the total disability rating reduced to the rating that the veteran's disability itself warrants.

The Committee bill is designed to determine whether a limited protection of the IU rating would encourage IU-rated veterans in attempting to return to work. The Committee notes that an IU rating can result in more than twice the benefits to which the veteran was entitled based on the schedular rating for his or her physical disability. The Committee bill is also designed to ensure that veterans who receive IU ratings realize whatever value the VA's vocational rehabilitation program may have in helping and encouraging them to return to work.

The Committee notes that a program similar to that provided for in the Committee bill already exists under the Social Security disability insurance—SSDI—program. Under section 222(c) of the Social Security Act, work performed by an individual during a so-called "period of trial work" is disregarded for purpose of determination as to whether he or she ceased to be disabled during that period. The period of trial work begins with the month in which the disabled individual becomes entitled to SSDI benefits and terminates at the end of the ninth month thereafter in which the individual has worked. Thus the SSDI period of trial work gives the individual 9 months—not necessarily consecutive months—during which he or she may engage in work on a trial basis without a need to be concerned that the attempt to work might mean the loss of SSDI benefits even though it turns out that his or her disability prevents employment on a long-term basis.

The Committee considers it desirable to provide every reasonable opportunity and encouragement for disabled veterans—including those with very serious handicaps and those determined to be unemployable—to return to work. In this regard, the Committee believes that additional efforts to assist veterans with IU ratings to attempt to return to work may be fruitful. Thus, section 110 of the Committee bill would establish a pilot project under which IU-rated veterans would be provided with the opportunity to participate in trial-work periods—patterned after the trial-work-period concept under the SSDI program—and with certain counseling and placement services. Work performed by the veteran during his or her period of trial work could not be taken into account in any review of the veteran's unemployability status. In addition, the VA would be required to conduct an outreach program to inform veterans with IU ratings about the pilot project and the availability of vocational rehabilitation under chapter 31 of title 38, United States Code, relating to the VA's rehabilitation programs for service-connected disabled veterans. An IU-rated veteran returning to work and desiring to participate in a trial-work period would be required to notify the VA of those facts, in writing, within 30 days after starting to work.

The Committee believes that these pilot project provisions could be beneficial both to service-connected disabled veterans with IU ratings who desire to return to work as well as to the compensation program itself. The period of trial work is designed to provide an additional, useful tool to the VA outreach staff and vocational rehabilitation counselors seeking to assist these disabled veterans in preparing to return to and remain in the workforce. The VA has a comprehensive program of vocational rehabilitation services for service-connected disabled veterans under chapter 31 of title 38, United States Code, which the Congress revised and updated in 1980 in Public Law 96-466. The Committee urges the VA to ensure that the trial-work period concept is linked to the agency's efforts to rehabilitate IU-rated veterans and to assist those who participate in the chapter 31 program to find and keep suitable employment.

### *Committee Bill Provisions*

Specifically, the Committee bill would establish a trial-work period pilot project that would take effect at the start of the fifth full month after the date of enactment and remain in effect for a period of 36 months, which the Administrator could extend to 48 months. A trial-work period would consist of a period of 12 consecutive months beginning on the date that the veteran begins to perform work. In order to participate in a period of trial work, the veteran would have to give the VA written notice, not later than 30 days after starting to work, of his or her plans to work and to participate in a trial work period.

The trial-work period is intended to help alleviate the veteran's concern that, if he or she does return to work, he or she will lose the IU rating even if he or she discovers that long-term employment is not possible. This provision would give the IU-rated veteran the opportunity to make an effort to return to work without running any risk, during the first 12 months after starting work, that his or her working during that period would result in determination that he or she is not entitled to the IU rating.

Activity determined by the Administrator to be of a type normally performed for remuneration or gain would be treated the same as activity that actually is performed for remuneration or gain. This provision regarding gainful-employment-like activities derives from the SSDI trial-work-period provision. The term used in this Social Security Act provision for work is "renders services", and the term "services" is defined as "activity which is performed for remuneration or gain or is determined by the Secretary [of Health and Human Services] to be of a type normally performed for remuneration or gain". The implementing regulations (section 404.1536(d) of title 42, Code of Federal Regulations (CFR)) make the following clarification:

> Work performed without remuneration merely as a therapeutic measure or purely as a matter of training, or work usually performed in daily routine around the home or in self-care, is not considered "services".

The Committee intends the VA to apply the same concept in implementing the trial-work period proposed in the Committee bill.

Once the 12-month trial-work periods has run, work performed thereafter by the veteran could be taken into account by the VA in assessing whether the veteran is or is not employable. However, in order to provide further encouragement to the veteran weighing the possibility of returning to work, the Committee bill would provide a potentially helpful procedural advantage to the veteran who, after his or her trial-work period, works and receives a reduction in his or her disability compensation as a result of being determined to be employable. If the veteran's work income falls below $300 in any month during the first year after the trial-work period, the veteran's IU rating would be restored effective as of the first day of that month and the Administrator would be required to review the case and determine whether an IU rating is warranted. (This $300 level derives from the SSDI regulations (sections 404.1571-74 of title 42, CFR), under which earnings of $300 or more per month are ordinarily considered as showing that the individual has performed "substantially gainful activity"—a finding of which renders the individual no longer disabled for SSDI purposes.)

In the event the Administrator determines, upon completing that review, that the veteran is no longer unemployable, the effective date of the resulting reduction would be fixed in accordance with the facts found. Section 3012(b)(6) of title 38, which generally provides for a delay—until more than 60 days after notice of a reduction is mailed to the veteran—of a compensation reduction based on a change in unemployability status, would be made inapplicable. (Thus, in the event that the review results in the withdrawal of the IU rating, the reduction would be retroactive to the date that the rating had been restored if it was found that, despite the drop in earned income, employability had not been lost. If it was determined that employability had been lost at the time the veteran's earned income dropped below $300 and was subsequently regained, the reduction would take effect as of the date employability was regained.)

This provision is designed to give a veteran who is contemplating an attempt to return to work the assurance that if the veteran becomes substantially unable to continue working after completing a period of trial work and receiving a reduction in disability compensation as a result of working after the trial period, his or her IU rating would be automatically restored on the basis of the reduced earnings. Thus, the veteran would not then be faced with the delays and other administrative difficulties involved in reapplying for the IU rating. Rather, the veteran would have the rating restored, immediately, subject to being later withdrawn upon completion of a mandatory review.

As previously noted, the Committee bill would also provide for certain counseling and other services to be provided to IU-rated veterans and require a VA outreach effort with respect to the pilot project. Thus, the VA would be directed to make available to each veteran with an IU rating, whether or not the veteran is participating in a vocational rehabilitation program under chapter 31 of title 38, certain kinds of counseling and other services provided under that chapter, namely, educational, vocational, psychological, employment, and personal adjustment counseling, job-placement services, and post-placement services to help insure a satisfactory adjustment in employment. These services could be extremely helpful to a seriously disabled veteran who desires to go back to work but is not pursuing a formal rehabilitation program.

To help ensure that IU-rated veterans are aware of their opportunities, the Committee bill has two notification provisions. First, the VA would be required to provide each veteran who has an IU rating (other than one made permanent under the provision in section 110 of title 38 that precludes review of service-connected ratings that have been in effect for 20 years) with information describing and explaining the pilot project and the procedures for participating in a trial-work period and with information about the availability of vocational rehabilitation under chapter 31 and the scope of services and assistance available under that chapter.

Second, the VA would be required, upon receiving notice from a veteran with an IU rating that the veteran desires to participate in a trial-work period, to provide the veteran with notice of the availability to him or her of the counseling and employment services available under the pilot project. This notice would cover some of the same information required in the first notice. However, in most cases a substantial period of time would expire between the time of the first notice and the veteran's beginning to work and providing the veteran, at or near the onset of his or her trial-work period, with information regarding the veteran's eligibility for counseling and employment services in connection with the trial-work period could be very useful to those who might not previously have focused on their eligibility for those services when they were first notified of it or who might have forgotten about it.

The pilot project would be open for new participants for the 36-month period beginning on its effective date (the first day of the fifth full month following enactment). In order to have the benefit of a trial-work period, the veteran would be required, prior to the 37th month after the pilot project's effective date, both to provide notice of his or her work plans and to perform work in at least 1 month. If the Administrator were to exercise the discretion provided by the Committee bill to extend the pilot project for 1 year, the deadline for initiating trial-work periods would be the last day of the 48th month after the effective date.

In order to assist the Committee and the Congress in evaluating the pilot project and the desirability of extending it or making it a permanent program and making any changes in it, the Administrator would be required to submit, within 39 months after the effective date, a report on the results of the first 3 years' experience under the pilot project. The Administrator would be required to include in the report the Administrator's assessments fo the value (including the cost-effectiveness) and effect of the program and any recommendations for administrative and legislative action.

The Committee notes that it has structured this project in the Committee bill as a pilot project of limited duration.

*Rehabilitation evaluations of veterans with IU rating*

In addition to the pilot project, the Committee bill would establish certain new requirements for veterans who, after the end of the fourth full month following the date of enactment, receive IU ratings. The VA would provide each such veteran with notice that he or she must, within 30 days after that notice was mailed to him or her, submit an application for an evaluation under chapter 31 of title 38. If determined to be eligible for that evaluation, the veteran would be required to cooperate in the conduct of it. Also, if the VA were to formulate a vocational rehabilitation program for the veteran under chapter 31, the veteran would be required—within the limits of the veteran's existing chapter 31 entitlement and period of eligibility—to pursue that program.

The VA's vocational rehabilitation counselors have expertise in these evaluations and are trained to be aware of many employment opportunities for a severely disabled veteran who may otherwise believe that he or she is too severely impaired to work. It may be that the veteran needs to be introduced to a new field and trained to perform new tasks. Thus, if the veteran has the potential to participate in a vocational rehabilitation program leading to substantial gainful employment, the need to continue the IU rating could be avoided.

In a case in which the Administrator determines that a veteran has failed to comply substantially with the requirements to cooperate in an evaluation or to pursue a vocational rehabilitation program if one is prescribed, the VA would provide the veteran with notice of a forthcoming review of the veteran's IU rating. Unless the veteran were to resume substantial compliance with these requirements within 60 days after the VA provided the notice (or within such longer period as is the shortest period within which it is reasonably feasible for the veteran to resume compliance), the VA would conduct a review of the determination that the veteran is entitled to an IU rating. The veteran's non-compliance with those requirements would be considered in the review. It is the Committee's intent that this requirement, together with the existing vocational rehabilitation program and the availability of the trial work period, operate to help encourage veterans with IU ratings to take full advantage of the assistance available to help them return to work.

## TITLE II. VETERANS' ADMINISTRATION REHABILITATION AND EDUCATION PROGRAMS

### Part A—Rate Increases

Sections 201 through 203 of the Committee bill would provide a 10-percent increase in the rates of rehabilitation subsistence and education assistance allowances payable to certain veterans and eligible survivors and dependents of veterans under chapters 31, 34, and 35 of title 38. Section 204 of the Committee bill would provide an increase in the rates of certain educational and training benefits received under chapter 36 of title 38. The Committee bill provides for an effective date of October 1, 1984, for all rate increases contained in part A of title II.

The provisions are designed to provide a 10-percent rate increase in subsistence and assistance allowances associated with participation in VA rehabilitation and GI Bill education programs to keep pace with increased costs of living and educational expenses since the last rate adjustment in 1981. These benefits were last adjusted by Public Law 96-466, which authorized a two-step, 10-percent increase consisting of a 5-percent increase effective October 1, 1980, and an additional, approximately 5-percent increase effective January 1, 1981.

As noted in the testimony submitted by the VA at the June 27 hearing, increases in the cost of education have been substantial since that time. According to data published by the National Center for Education Statistics, U.S. Department of Education, there has been an increase of more than 33 percent from school year 1980-81 through school year 1983-84 in the total costs of tuition, fees, and room and board at all public schools and an increase in such costs of almost 38 percent at all private schools during that period.

The 10-percent rate increases would apply to the subsistence allowances paid to veterans with service-connected disabilities who are participating in a VA rehabilitation program; veterans who are receiving GI Bill educational assistance allowances, including tutorial assistance; eligible survivors and dependents of veterans who are receiving educational assistance or special training allowances; and eligible veterans who are receiving training assistance alowances for certain apprenticeship or on-job training programs.

Although the Committee bill provides for a 10-percent increase instead of a 15-percent increase which the VA had proposed, the effective date of the Committee bill would be October 1, 1984, instead of the Veterans' Administration's proposed effective date of January 1, 1985. This will benefit the recipient by enabling eligible students to receive the rate increase 3 months earlier.

An increase of $2 in the amounts paid to educational institutions and training establishments for reporting fees is justified by increased administrative processing costs since the last rate adjustment in the fee in 1977. Reporting fees would be increased from $7 to $9 annually per eligible person for a required reports or certifications, and from $11 to $13 annually for each eligible person for whom the educational institution processes and then receives advance payment of VA educational assistance checks.

### Part B—Rehabilitation and Education Program Improvements

### *Tolling Delimiting Dates By Reason of Drug or Alcohol Conditions*

#### *Background*

In the GI Bill Improvement Act of 1977, Public Law 95-202, the Congress provided for the granting of extensions of the 10-year GI Bill delimiting period in the case of an eligible veteran or an eligible spouse who is prevented from pursuing a program of education during that period due to a mental or physical disability not the result of willful misconduct. Under that law, the delimiting period does not run during any period of time that the veteran or eligible spouse is determined to have been unable to pursue training because of the disability.

However, there have been a number of instances in which the VA has denied a delimiting-period extension to an otherwise eligible veteran under this authority on the grounds that the disability on which the veteran based his or her claim was an alcohol or drug abuse or addiction disability, which the VA considers categorically to be a condition due to willful misconduct. The VA has based its denial in these cases on the legislative history of the 1977 provision that addressed the issue of how determinations of disability should be made for the purposes of the extension. In particular, the report of the Veterans' Affairs Committee (S. Rept. No. 95-468) on the provision which was enacted as section 203(a)(1) of Public Law 95-202, in discussing the concept of "willful misconduct", stated at pages 69-70:

In determining whether the disability sustained was a result of the veteran's own "willful misconduct", the Committee intends that the same standards be applied as are utilized in determining eligibility for other VA programs under title 38.

The report further referenced VA regulations and manual provisions relating to the determination of willful misconduct for the purposes of determining service-connected disability. Under the VA's interpretation of those standards (38 CFR section 3.301(c)(2) and (3)) alcoholism and drug addiction and injuries proximately and immediately resulting from the effects of the deliberate ingestion of an alcoholic beverage or voluntary use of a drug—such as an injury incurred in a traffic accident caused by the veteran's driving while under the influence of alcohol or a drug—are considered to be the result of willful misconduct.

In 1979, the Veteran's Affairs Committee reexamined the practical consequences of denying a delimiting period extension in such cases and the differences between awarding such an extension on the grounds of alcohol or drug disabilities and awarding other VA benefits, such as compensation or pension, based on such disabilities. As a result of this reexamination, the Committee saw no substantial purpose to be served by denying a veteran a GI Bill delimiting-period extension when the veteran was prevented by a drug or alcohol disability, during part or all of the ordinary 10-year delimiting period, from using GI Bill educational assistance would have considerable value to achieving and maintaining the medical, social, and economic rehabilitation of veteran recovering from disabilities related to alcohol or drugs.

In contrast, the Committee noted that some undesirable consequences might flow from a similar rule being applied for purposes of other VA benefit programs, such as service-connected compensation, where the rate and duration of benefits depend directly upon the severity and duration of the disability. If an individual were to be granted disability compensation for alcoholism or drug addiction, there would be a strong financial incentive established—in the form of a higher rate of compensation or the continuation of receipt of compensation—toward the worsening or prolongation of the disability. Either of these factors are to some extent within the control of the veteran because they depend upon the amount, frequency, and duration of his or her consumption of alcoholic beverages or drugs.

Thus, the Committee reported in S. 870—and the Senate passed in section 201(2) of H.R. 5288—a provision to establish that an alcohol or drug dependence or abuse disability from which a veteran or eligible spouse has recovered shall not, solely for purposes of deciding requests for delimiting-period extensions be considered to be the result of willful misconduct.

Similarly, in S. 1188, the bill reported by the Committee in 1980 to revise and update chapter 31, relating to VA rehabilitation programs for service-connected disabled veterans, the Senate passed on September 4, 1980, a comparable provision to provide for the tolling of a service-connected disabled veteran's delimiting period for a chapter 31 rehabilitation program on account of an alcohol or drug disability.

However, despite the Committee's strongest urgings, the House would accept neither the GI Bill nor the rehabilitation program provision for delimiting-period extensions based on drug or alcohol disabilities.

In 1981, in connection with S. 921, the proposed "Veterans' Programs Extension and Improvement Act of 1981", the Senate again approved similar provisions, and again the House refused to accept them. In 1982, in S. 2013, the proposed "Veterans' Compensation, Education, and Employment Amendments of 1982", the Senate passed these provisions with revisions to address certain concerns expressed by the VA; again the House refused to accept the Senate provisions.

The Committee believes both that the opportunity to use GI Bill and VA rehabilitation program benefits can be extremely important to the readjustment and rehabilitation of the Vietnam-era and service-connected disabled veterans involved and that the delimiting-period extensions for those who were, but are no longer, prevented by alcohol or drug disabilities from using those benefits would be fully consistent with the readjustment and rehabilitation goals of both programs.

#### *Committee Bill Provisions*

Thus, section 210 of the Committee bill contains provisions—largely identical to those of S. 2013 as passed by the Senate in the 97th Congress—that would amend chapters 31, 34, and 35 to permit the Administrator to extend delimiting periods in the cases of veterans and eligible persons who have been prevented from using their education or rehabilitation entitlements under title 38 as a result of alcohol or drug dependence or abuse conditions.

In 1982, in view of certain concerns and objections raised by the VA about the implication of the provision insofar as disability compensation is concerned and about its ability to administer such provisions effectively, the Committee recast the provisions substantially. These provisions, which are contained in the Committee bill, are designed to reflect, even more clearly than the versions prior to 1982, the Committee's intention not to undercut, in any manner, any administrative directives or legislative provisions expressly or implicitly to the effect that alcohol or drug abuse or dependence are necessarily the result of willful misconduct. Hence, the Committee bill would make clear that, for the purposes of determining eligibility for an extension of the applicable delimiting period, an alcohol or drug dependence or abuse condition would not be considered a "disability"; it would simply be considered as a "condition" that could have prevented a veteran or eligible person from pursuing a program of education or participating in a program of vocational rehabilitation.

Next, in recognition of the administrative diffculties that could arise from the enactment of the provisions, the Committee bill unlike the pre-1982 versions would not require that the veteran or eligible person has "recovered" from an alcohol or drug abuse or dependence condition, but rather that such a condition be under control to such an extent as to enable an individual to participate in an apppropriate program. Further, it would facilitate in two ways the making of determinations as to whether the individual had actually suffered from such a condition: (1) by requiring that he or she must have received recognized treatment or participated in a program of rehabilitation for the condition and (2) by authorizing the Administrator to prescribe regulations specifying what specific types of treatment would be recognized for this purpose and what forms of rehabilitation programs would be qualifying. Thus, the Administrator would have the authority to make reasonable determinations as to participation in which programs—such as those offered by Alcoholics Anonymous or other treatment source—would qualify an individual for eligibility under the tolling provisions.

Additionally, the provisions would limit the length of any extension period to the period of time equal to the length of time that the individual participated in a program of treatment or rehabilitation for the condition plus the period during which the individual was able to demonstrate to the satisfaction of the Administrator that the condition prevented pursuit of a program of education or rehabilitation. However, in no event, could the extension exceed 4 years. Thus, the Committee bill would address concerns that an individual would be able to obtain an extremely long period of tolling the applicable delimiting period.

The Committee also notes that the amendments proposed by the Committee bill would make provision for the measurement of the extension period in a manner identical to that provided for extensions on account of disabilities under current law. That is, the delimiting period would again begin to run—after being tolled—on the first day on which the Administrator determines it is reasonably feasible for the individual to begin training.

In addition, under the amendments made by the Committee bill, the period of time for an individual to file an application under this authority for an extension of the delimiting period would be limited. Applications would be required to be filed within 1 year after whichever is the latest of the date on which the delimiting period would have otherwise expired, the date on which the last period of rehabilitation or treatment for the condition was terminated, or the date on which final regulations to implement the proposed extension authority are published.

Finally, in the one substantive change that has been made from the 1982 version, the Committee bill would require that, in order to be eligible for a tolling of the period of eligibility, a verteran must have been released or discharged from active-duty service under conditions other than dishonorable and that, if the veteran received other than an honorable discharge, the Administrator must make the determination regarding the character of the veteran's discharge on the basis of an individualized review of the veteran's service record.

Under current VA regulations (section 312(a) of title 38, Code of Federal Regulations), general discharges (which the armed services characterize as discharges under honorable conditions) are automatically accepted by the VA as being discharges under conditions other than dishonorable and, thus, as qualifying discharges for purposes of benefits under title 38. Thus, the effect of the Committee bill would be to not allow general discharges to be considered as automatically qualifying for purposes of eligibility for a delimiting date extension under this new paragraph. Rather, it is the Committee's intent that the VA make case-by-case determinations, using the standards set forth in its regulations for determining the character of service of recipients of discharges other than honorable and general discharges, as to whether the service of a recipient of a general discharge is qualifying service for purposes of eligibility for a tolling of the period of eligibility.

In sum, the Committee stresses that it believes that it is simply not necessary to resolve the issue of the relationship of alcohol and drug dependence or abuse conditions to compensation for disabilities in order to make this kind of an education or rehabilitation benefit extension available. Thus, the Committee is again proposing the enactment of this provision in a form that is designed as clearly as possible to avoid this issue and hence enhance the prospects for enactment of this legislation.

### *Repeal of Reporting Requirement*

Section 21[illegible] of the Committee bill would repeal a requirement that the Administrator submit to the Congress an annual report on false advertising by institutions approved for VA training.

Section 1796 of title 38, which was enacted in 1974 by section 212 of Public Law 93-508, prohibits the Administrator from approving enrollments in courses offered by institutions that use erroneous, deceptive, or misleading advertising, sales, or enrollment practices. Subsection (d) of section 1796 requires the Administrator to report annually to the Congress on the nature and disposition of all cases arising under that section.

In the report accompanying the bill (S. 2734) from which section 1796 derived (S. Rept. No. 93-907, page 90), the Committee stated that the purpose of this report is to "permit the Congress an opportunity for thorough oversight and review of the operation and administration of this section." In addition, the Committee noted that a more adequate and informative reporting system from the VA's field and regional offices to its central office would ensure more uniformity of interpretation and enforcement, as well as enable trends in and problems with deceptive advertising, sales, or enrollment practices "to be spotted more readily and dealt with in an evenhanded fashion nationally".

Based on the experience over the past 9 years the Committee has concluded the annual report is no longer necessary. Because the Committee believes that unnecessary reporting requirements and paperwork should be eliminated whenever feasible, the Committee bill would, therefore, repeal the requirement for this annual report. However, the Committee does not intend by this action to suggest that erroneous, deceptive, or misleading advertising, sales, or enrollment practices should not continue to be monitored at the national level. Indeed the Committee expects that the Administrator will notify the Congress of any serious new trends that arise in this area and of any need for remedial legislation that may arise in that regard.

### *Term-by-Term Certifications*

On June 30, 1983, the VA published in the Federal Register proposed regulations to modify the manner in which students attending school and receiving VA assistance under chapter 34 or 35 of title 38 are certified as enrolled for the purposes of receiving benefits. At present, veterans may be certified as enrolled for periodes longer than a term semester, or quarter. Thus, for example, a veteran enrolled in a program of education at an institution of higher learning at the beginning of the fall trimester may be certified by the school as enrolled for the entire school year—including the fall, winter, and spring trimesters.

Under the proposed regulations, this practice would no longer be permitted. Instead, students would be required to have the institution certify their enrollment at the beginning of each term, semester, or quarter.

The Committee is aware of the concerns expressed by a number of students and institutions about this proposed change and the effect it could have on the paperwork burdens of both the institutions and the VA and on the timelines of benefit payments at the outset of school classes. Indeed, the VA has advised the Committee that if a term-by-term enrollment certification is required, almost 740,000 additional certifications will need to be processed in fiscal year 1985 and more than 2.2 million more in fiscal years 1986 through 1989.

The Committee is also aware of and sympathetic to the VA's purpose in pursuing this change in policy—that is, the achievement of savings by reducing overpayments of educational benefits. The VA's Office of the Inspector General has estimated that, from fiscal year 1985 through fiscal year 1990, the cost of implementing the proposal will be $11.3 million, but that the new policy will avoid the establishment of almost $150 million in overpayments.

The Committee firmly believes that the VA needs to make maximum efforts to control overpayments. However, the Committee also believes that the educational community should have full opportunity to make its views known on whether such administrative requirements impose unnecessarily restrictive or burdensome procedures and to have those views fully evaluated and considered prior to the implementation of any changes in the certification process.

Thus, the Committee was pleased to learn that the Administrator's Advisory Committee on Education, established pursuant to section 1792 of title 38, is reviewing the proposal and is expected to make recommendations on it. The Committee believes that it is both important and necessary for the Administrator to have input from the Advisory Committee, which includes experts in the area of higher education, before putting in place any changes in the enrollment certification process. Thus, section 212 of the Committee bill would prohibit the Administrator from making any changes in the process prior to receiving the recommendations of the Advisory Committee.

## TITLE III: VETERANS' EMPLOYMENT PROGRAMS

### *Veterans Readjustment Appointments*

Section 301 of the Committee bill would extend for 1 year the expiring authority in section 2014(b) of title 38 for veterans readjustment appointments (VRA's), providing veterans receiving VRA's with limited appeal rights during the first year of employment, and modify a reporting requirement applicable to the Office of Personnel Management (OPM).

The VRA authority, which expires under current law on September 30, 1984, permits certain disabled Vietnam-era veterans and educationally disadvantaged Vietnam-era veterans to be given excepted appointments in the Federal civil service. The program was established in 1970 when as many as a million men and women a year were leaving the military, aggravating an already serious unemployment problem among Vietnam-era veterans. In early 1971, unemployment among young veterans was reaching as high as 16 percent among veterans 20-24 years old. The program was intended to assist these veterans by making it possible for them to be hired noncompetitively into the Federal civil service and to develop additional skills through a program combining education and training with the opportunity for a regular career appointment.

The Committee recognizes that the VRA program has been successful in that it has provided employment for tens of thousands of those Vietnam-era veterans who would otherwise, because of a variety of factors, not have been able to obtain Federal employment, and also has served as a fine example to the private sector of the Federal Government's interest in hiring recently separated wartime veterans. For these reasons, the Committee bill would extend the VRA program for one additional year.

In addition, the Committee bill—based upon a proposal made by the Administration in a February 24, 1984, letter to the President of the Senate from OPM Director Donald J. Devine—would provide that a veteran who receives a VRA appointment and who is terminated during the first year after the date of the appointment has the same right to appeal the termination to the Merit Systems Protection Board (MSPB) as a career or career-conditional employee has during the first year of employment. At present, veterans with VRA's have no appeal rights until they have completed 1 year of employment. At that point—under subchapter II of chapter 75 of title 5, United States Code, relating to certain adverse actions against Federal employees, and, specifically, section 7511(a)(1), which includes a preference eligible who has completed 1 year of continuous service in the definition of an employee for purposes of the procedural rights afforded under that subchapter—these veterans have the right to appeal terminations and certain other adverse actions to the MSPB.

However, career and career-conditional employees who are in probationary status (first-year employees) do have certain limited appeal rights with respect to terminations. These appeal rights, enunciated in section 315.806 of title 5 of the Code of Federal Regulations, provide these first-year employees with the right to appeal, on procedural grounds only, terminations for conditions that arose before their employment began and the right to appeal terminations alleged to be based on discrimination on account of partisan political reasons or marital status. Thus, the effect of the Committee bill would be to grant first-year VRA appointees these same limited appeal rights.

Finally, the Committee bill would also—based upon a proposal made by the Administration and reflected in Director Devine's February 24 letter—provide that a report, required under current law to be submitted semiannually by OPM, be submitted only on an annual basis. This report includes a review and analysis of the Federal Government's implementation of the VRA authority and other employment programs for veterans.

### *Emergency Veterans' Job Training Act Program*

Section 302 of the Committee bill would amend the Emergency Veterans' Job Training Act of 1983 (Public Law 98-77) (hereinafter referred to as "EVJTA") to extend by 6 months the date by which a veteran must enter a program of job training in order for a payment of assistance to be made to an employer on the veteran's behalf and to extend the life of certificates of eligibility provided to veterans who have been determined to be eligible for the program established by that Act.

EVJTA, enacted on August 15, 1983, was designed to provide employers with incentives, in the form of payments to defray training costs, to hire and train long-term unemployed Korean-conflict and Vietnam-era veterans. Section 17(a) of EVJTA provide that, if funding for the program had been appropriated and made available to the VA by October 1, 1983, a veteran desiring to participate would be required to apply by September 30, 1984, and to enter a program of training by December 31, 1984. However, in recognition of the possibility that appropriations might not become available by that date, the law provided for a tolling period. Under this mechanism, in section 17(b) of the law, the veteran has until 1 year after the date on which appropriations are made available for the program to apply and until 15 months after that to enter training.

The first $75 million in funds for the program were appropriated on November 14, 1983, as part of a continuing appropriations for fiscal year 1984, Public Law 98-151. Since these funds were not made available to the VA until November 29, 1983, eligible veterans have until November 29, 1984, to apply and until March 1, 1985, to enter training. (The remainder of the full amount authorized by section 18 of EVJTA for fiscal year 1984 for payments to employers under this program, $150 million, was provided when a second $75 million appropriation was included in the fiscal year 1984 supplemental appropriations measure, Public Law 98-181, enacted on November 30, 1983.)

Despite the very high degree of interest shown in the program—particularly among veterans—it got off to a very slow start. As of August 20, according to the VA, 237,887 veterans had applied for the program and 192,274 had been certified as eligible. Also as of that date, 25,707 employers had been approved to offer training for 57,256 job slots.

Nevertheless, despite strong interest in the program, the number of veterans actually placed in training slots has been most discouraging. Only 12,626 veterans—or slightly more than 6.5 percent of those determined eligible—are actually in training under the new program, and only 22.1 percent of the training slots have been filled. As a result only $54.9 million made available for the program has been obligated as of August 20, 1984.

The Committee recognizes that because the program is a new one, the expertise and experience gained over the past 9 months that could have enhanced early implementation was not available previously and that matching eligible veterans with available jobs, especially in areas of high unemployment, is a difficult task with which certain delays are necessarily associated.

Thus, the Committee has concluded that the program should be given additional time in order to achieve its potential. To provide an appropriate opportunity for the program to meet eligible unemployed veterans' needs, the Committee bill would postpone by 6 months, from March 1, 1985, to September 1, 1985, the date by which a veteran must begin training under the program. The Committee notes that the effect of this extension would not be to enlarge the potential pool of veterans who could be eligible for the program—which is limited to those applying for certificates of eligibility prior to November 29, 1984. Rather, the effect would be to provide those who have already been determined to be eligible with additional time to secure training positions and begin training under the program.

In addition, the Committee bill would provide an extension of the period of time during which funds already appropriated for the measure will remain available. Under current law, the funds appropriated for the program will remain available until September 30, 1986. The Committee bill would extend the funding availability, by 1 year, until September 30, 1987, to ensure that payments can be paid to employers for the duration of the training programs that begin during the 6-month extension of the period for entering training. This provision does not authorize any additional appropriations but simply extends the period of time that the already appropriated funds are to remain available.

Finally, the Committee bill would extend the life of a certificate of eligibility provided to a veteran who has been determined to be eligible for the program. Under current law, these certificates are good for 60 days, and during that period the veteran can present them to an approved employer for purposes of entering a job training program. This 60-day period appears to be too short a time and, as a result, may be producing unnecessary and time-delaying paperwork in the form of applications for certificate renewals. Extending this period to 90 days, as the Committee bill would do, should greatly reduce this problem.

The Committee notes that veterans who have been certified as eligible for the program and whose certificates of eligibility have expired may apply for recertification. It should be noted that these recertifications could be made following the last day of the period in which to make application—November 29, 1984. Therefore, veterans who applied prior to that date and who are certified as eligible could be recertified for 90-day periods following that date.

### TITLE IV: VETERANS' ADMINISTRATION NON-SERVICE-CONNECTED DISABILITY PENSION

### *Trial-Work Period Pilot Project*

Section 401 of the Committee bill would establish a 3-year pilot project (which the Administrator could extend to 4 years) under which a needy wartime veteran receiving non-service-connected disability pension on the basis of actual disability could participate in a one-time period of trial work without losing permanent and total disability status and pension-based VA health-care eligibility. Also, under the pilot project, the VA health-care eligibility of veterans whose VA pensions are terminated due to income derived from participation in a VA or State vocational rehabilitation program would be protected and, in certain circumstances, a subsistence allowance received by a veteran participating in such a rehabilitation program would be disregarded in determining the veteran's income for VA pension purposes.

### *Background and Purposes*

To be entitled to benefits under the VA's non-service-connected pension program for needy wartime veterans, a veteran must have some wartime service, must be either permanently and totally disabled or over 65 years of age, and must have total annual income less than the income standard applicable to his or her situation. For example, the annual income standard for a veteran with no dependents is $5,515; for a veteran with a spouse and one child, $8,160; and for a veteran who has a spouse and is in need of regular aid and attendance, $10,533.

A veteran-pensioner receives monthly pension payments based on the amount by which the applicable income standard exceeds his or her income. In addition, by virtue of pension status, a veteran is eligible for VA health care—specifically, hospital care, limited post-hospital nursing-home care, pre- and post-hospital outpatient care, and outpatient care necessary to obviate the need for hospital care—without meeting the requirement, generally applicable to non-service-connected disabled veterans under age 65, of being unable to defray the costs of the care. A veteran-pensioner who is in need of regular aid and attendance or is permanently housebound has general eligibility for VA outpatient care, including certain limited contract-care eligibility and has an outpatient care priority ahead of all other veterans without service-connected disabilities except former prisoners of war and certain veterans receiving treatment for disabilities that might be the result of their exposure to dioxin or ionizing radiation.

Under VA regulations (section 4.17 of title 38, CFR), a needy, non-service-connected disabled veteran under age 65 will be considered "permanently and totally disabled" for pension purposes, if he or she is determined to be "unable to secure and follow a substantially gainful occupation by reason of disabilities * * * likely to be permanent." As under the service-connected compensation program (as discussed above in connection with section 110 of the Committee bill), the determination of total disability based on unemployability can be subjective and remains open for review.

The Committee believes that a disabled pensioner who desires to return to work may initially be discouraged from doing so because the veteran may be concerned that an attempt to return to work could jeopardize his or her future pension payments. The veteran-pensioner may be concerned that he or she would no longer be considered unemployable, even if his or her work income is less than the applicable income standard and the pensioner has no other income. Veteran-pensioners may also be concerned that they may not be able to be redetermined to be unemployable—even if they find that they are unable to maintain long-term employment—if their work income results in the income standard being exceeded and their pension terminated. In any such situations, the veteran may have the most concern about the possible loss of VA health-care eligibility and, if applicable, priority in outpatient care.

A program similar to that proposed in the Committee bill already exists for disabled recipients of supplementary security income (SSI), the needs-based Federal income-maintenance program for elderly and disabled persons. Under section 1614(a)(3) and (4) of the Social Security Act, trial-work periods, together with an up-to-15-month delay in benefit termination based on work performed after the end of the trial-work period, along the lines of those provided for Social Security disability insurance beneficiaries (as described above in the discussion of section 110 of the Committee bill) are available for SSI recipients.

The Committee considers it desirable to provide every reasonable opportunity and encouragement, consistent with general principles governing title 38 programs, for disabled veteran-pensioners to return to work. Thus, section 401 of the Committee bill would establish a pilot project under which these veterans would be provided with the opportunity to participate in trial-work periods patterned after the trial work period concept under the SSDI/SSI programs with certain modifications.

The pilot-project provisions in the Committee bill are designed to make it possible to determine whether there is a substantial possibility that disabled veteran-pensioners are more likely to find it advantageous to try to return to work if their disability status and VA health-care benefits are protected for an extended period. Of course, to the extent that this trial-work project helps veteran-pensioners return to and maintain employment, the project would produce savings in VA pension benefits.

### *Committee Bill Provisions*

Specifically, the Committee bill would establish a trial-work period pilot project that would take effect at the start of the fifth full month after the date of enactment and remain in effect for a period of 36 months, which the Administrator could extend to 48 months. A trial-work period would consist of a period of 36 consecutive months beginning on that date that the veteran begins to perform work. In order to participate in a period of trial work, the veteran would have to give the VA written notice, not later than 30 days after starting to work, of his or her plans to work and to participate in a trial-work period. Work performed by the veteran during his or her period of trial work could not be taken into account in any review of the veteran's unemployability status.

The trial work provision would thus give the veteran-pensioner under age 65 the opportunity to make an effort to return to work without running any risk, during the first 36 months after starting work, that his or her working during that period would result in a determination, under the VA regulations noted above, that he or she has regained the ability "to secure and follow a substantially gainful occupation by reason of disabilities" and is thus ineligible for pension.

As under the trial-work period provision for service-connected disabled veterans with IU ratings (section 110 of the Committee bill), activity determined by the Administrator to be of a type normally performed for remuneration or gain would be treated the same as activiy that actually is performed for remuneration or gain. The Committee intends the VA, in implementing the pension trial-work period proposed in the Committee bill, to apply the same concept relating to unremunerated work activities as is described in the prior discussion of the compensation trial-work period provision for IU-rated veterans.

The Committee bill would also protect the veteran-pensioner's VA health-care eligibility during a trial-work period. Where a veteran's pension is terminated because the veteran's work income causes his or her pension income standard to be exceeded, the veteran would retain his or her pension-based VA health-care eligibility and any priority in outpatient care that he or she had as a pensioner. The Committee bill would also provide for extended protection of the VA health-care eligibility of a veteran whose pension entitlement is terminated by reason of income from work or training either during the veteran's participation in or following the veteran's completion of a vocational rehabilitation program under chapter 31 of title 38 or under the Federal-State program under title I of the Rehabilitation Act of 1973. The veteran would retain that health-care eligibility for 1 year after the termination of either the veteran's pension or the veteran's participation in the vocational rehabilitation program, whichever is later. These provisions are designed to help determine whether the continuation of VA health-care eligibility would encourage disabled pension recipients attempting to return to work.

Finally, the Committee bill would provide for one type of income to be disregarded in the computation of a veteran's income for pension purposes. If the veteran is participating in a vocational rehabilitation program under chapter 31 of title 38 or under the Federal-State program under title I of the Rehabilitation Act of 1973, payment to the veteran of a subsistence or maintenance allowance under that program for any month during which it is necessary for the veteran to reside away from the veteran's permanent residence in order to participate in the program would not be counted as income to the veteran. Since, under current law, any subsistence or similar allowance payments are not disregarded in the computation of the veteran's income and his or her pension thus is reduced dollar-for-dollar for any such payments, the payment of the allowance to the veteran may not serve its purpose of encouraging and facilitating the veteran's participation in the training. Thus, this provision would help ensure that any discouragement to the disabled veteran-pensioner that may be caused by the unreimbursed costs-of-living away from home in order to pursue vocational rehabilitation does not interfere with the Committee's effort to learn whether and how more of these pensioners can be helped in returning to the workforce.

The trial-work period pilot project for pension recipients would be open for new participants for the same 3-year period and under the same conditions provided for IU-rated veterans, as described earlier in the discussion of section 110 of the Committee bill. Likewise, a provision for a 1-year extension of the pilot project for pensioners, substantively identical to the extension provision in section 110, is included in the Committee bill, and the same type of report would be required on the first 3 years' experience under this pilot project as would be required by section 110 with regard to the pilot project for veterans with IU ratings.

The Committee notes that it has structured this project in the Committee bill as a pilot project of limited duration.

### *Report on Medical Examinations of Certain Pension Recipients*

Section 402 of the Committee bill would require the Administrator of Veterans' Affairs to submit to the Congress not later than 28 months after the enactment of this Act a report (including a statistical tabulation) on the results of medical examinations which would be conducted for certain veteran-pensioners. This provision would apply to veterans who, during the of 2-year period after the date of enactment of the Committee bill, are awarded pension for non-service-connected permanent and total disability by reason of being 65 years of age or older, meeting the income criteria, and having had wartime service. In order to obtain the information necessary for the report, the Administrator would be required to conduct a medical examination (similar to the examination conducted for veterans under age 65 applying for pension under chapter 15 of title 38, United States Code or for veterans applying for compensation benefits under chapter 11 of title 38, United States Code) of each such veteran, to determine what, if any, percentage rating would be applicable to the veteran under the disability compensation rating schedule adopted pursuant to section 355 of title 38, United States Code. The medical examination would be conducted not later than 90 days after the veteran is awarded pension. The provision would not affect any veterans receiving pension on the date of enactment.

The schedule of disability ratings adopted under section 355 of title 38, is designed to reflect reductions in a veteran's earning capacity as a result of a service-connected disability or combination of disabilities. The schedule of ratings provides for 10 grades of disability upon which compensation benefits for service-connected disabilities are based, ranging from 10- to 100-percent disability, with intermediate grades of 10-percent multiples.

Veterans under 65, who qualify for pension must have been determined first to be totally and permanently disabled under the VA's schedule of disability ratings. Pursuant to VA regulation, section 4.17, veterans between ages 55-59 and 60-64, who apply for VA pensions, are required to be only 60-percent and 50-percent disabled, respectively, to be considered permanently and totally disabled.

It is the Committee's intent that all new pension recipients over age 65 cooperate with the VA's efforts to prepare the mandated report based on the VA medical examinations and assignment of a schedular disability rating. It is further the Committee's intent that the report on the results of the medical examinations provide sufficient statistical information to enable the VA and Congress to learn more about the health status of older, needy wartime veterans who currently become automatically eligible for pension solely by reason of their age and income status. The statistical tabulation of the results of the medical examinations conducted for purposes of the report pursuant to this provision should provide detailed information which is not presently available on the actual disabilities of such veteran-pensioners. It is also the Committee's intent that the information required to be reported document whether there are serious health problems for this category of veteran-pensioners and indicate whether these veterans would have been eligible for pension without the automatic age-based eligibility.

## TITLE V: OTHER BENEFIT RATE INCREASES

### *Specially Adapted Housing Assistance Increase*

Section 501 of the Committee bill would increase by 10 percent, from $32,500 to $35,750, effective July 1, 1985, the maximum amount payable in specially adapted housing assistance, under the so-called "wheelchair home" program, to certain veterans with total and permanent service-connected disabilities that impair their mobility. Section 501 would also increase by 10 percent, from $5,000 to $5,500, effective July 1, 1985, the maximum amount payable in adapted housing assistance to certain veterans who suffer from service-connected blindness or who have suffered the loss or loss of use of two upper extremities. These programs are codified in chapter 21 of title 38, United States Code.

Under the wheelchair home program, the VA provides veterans who have certain permanent and total service-connected disabilities involving mobility impairments with assistance in acquiring suitable housing with adaptations made necessary by the nature of their disabilities. Under current law, these disabled veterans are eligible for a grant not to exceed 50 percent of the cost of the home and necessary land, up to a maximum grant of $32,500. Veterans eligible for housing assistance grants are principally quadraplegics, paraplegics, amputees, and certain others who, because of their service-connected disabilities, require the use of a wheelchair, braces, cane, or crutches to move about. Their disabling conditions typically require ramps, special bathroom equipment, extra-large rooms and hallways, and various other adaptations that are extremely helpful for their health and safety.

Increases in the maximum amount of the grant have been provided periodically. When originally enacted in Public Law 80-702 in 1948, the specially adapted housing program provided for assistance of up to $10,000. At that time, the average cost of construction for a new single-family residence was $7,800. Housing construction costs have risen enormously since then, and the maximum amount of assistance has been increased on five occasions. The last increase, up to $32,500, effective October 17, 1981, was made by section 502(1) of Public Law 97-66. At that time, according to the VA, the average cost of a home was $59,000. In 1984, that cost has increased to $68,000.

By raising the maximum limit of the assistance by 10 percent, to $35,750, the Committee bill would help ameliorate the erosion in the value of this benefit made by increases in construction costs over the last 3½ years.

In addition, the Committee bill would increase, effective July 1, 1985, the maximum amount of assistance for special housing adaptations that is available to certain veterans suffering from service-connected total blindness or the loss or loss of use of both upper extremities. This program of assistance, payable pursuant to section 801(b) of title 38, was enacted in 1980 by section 301 of Public Law 96-385. Under this program, an eligible veteran is entitled to assistance, up to a maximum of $5,000, for the purposes of making special adaptations that the Administrator determines are reasonably necessary because of the veteran's disability. This maximum amount has not been increased since the program began in 1980. Thus, the Committee bill, by providing for a 10-percent increase in this grant, would also help ameliorate the erosion in the value of this benefit made by increases in construction costs.

### *Automobile Assistance Allowance Increase*

Section 502 of the Committee bill would increase by 10 percent, from $4,400 to $4,840, effective July 1, 1985, the amount of the automobile assistance allowance provided by the VA to veterans with certain severe, service-connected disabilities.

The program of automobile assistance grants—now codified in chapter 39 of title 38, United States Code—was established by the Congress in Public Law No. 663, 79th Congress, enacted in 1946. Under this program, veterans who have suffered the service-connected loss or loss of use of one or both feet or hands or service-connected blindness are entitled to a one-time VA grant to assist them in purchasing an automobile.

Public Law 91-666, enacted in 1970, increased, effective January 11, 1971, the maximum amount of the allowance payable toward the purchase of an automobile or other conveyance from the original $1,600 maximum to $2,800. Public Law 93-548 increased the maximum to $3,300, effective February 1975, and Public Law 95-479 increased it to $3,800, effective October 1, 1978. The increase to the current level of $4,400 was enacted by Public Law 97-66, effective October 1, 1981.

Since the effective date of the last increase, October 1, 1981, the Bureau of Labor Statistics' (BLS) Consumer Price Index component for new automobiles has risen by 7.4 percent. The Committee recognizes that the Department of Commerce compiles data on the average automobile cost that shows that a higher increase has occurred over the same period of time—18.7 percent. However, that figure represents the average cost of all makes and models of all automobiles, without taking into account the buying patterns of American consumers as do the BLS figures. The Committee believes--particularly when faced with the current, great need to exercise fiscal constraint—that the need for increases in the maximum amount of the allowance is more accurately measured by the BLS data.

Thus, section 502 of the Committee bill would increase the automobile assistance allowance to $4,480, effective July 1, 1985, so as to help ameliorate the erosion in the value of this benefit resulting from increases in the cost of automobiles.

### TITLE VI: MISCELLANEOUS PROVISIONS

### *Definition of Vietnam Era*

Section 601 of the Committee bill would, effective October 1, 1984, or on the date of enactment, whichever is the later, expand the definition of the Vietnam era for the purposes of title 38, United States Code, to include the period beginning on February 21, 1961, and ending on August 4, 1964, in the case of those who served in Vietnam during that time. On May 25, 1984, a substantially identical provision was included in section 8 of S. 2514 as reported, the proposed "Veterans' Administration Health Care Amendments of 1984". The provision in the Committee bill would expand the population of wartime veterans and survivors eligible for, among other benefits, the VA's need-based non-service-connected pension program and, thus, would involve new entitlement spending--as would the provisions of section 14 of S. 2514 as reported, which would provide for certain income to be disregarded for purposes of determining and calculating the amount of a veteran's or survivor's VA pension entitlement. These sections of S. 2514 as reported were deleted from that bill on a motion of the Committee during consideration by the Senate of that bill on August 8—solely for the purpose of avoiding a problem under the Congressional Budget Act of 1974, related to the fact that they involve entitlement spending. The deletion on August 8 was made with a view toward their inclusion in this bill, a measure generally involving entitlement spending for which the Committee has reported to the Senate a single waiver resolution under section 303(c) of the Congressional Budget Act. This resolution is discussed at the very end of this discussion.

Rather than reiterate the explanation of and justification for this provision dealing with the expanded definition, which are set forth in the portion of the "Discussion" in the Committee's report on S. 2514 dealing with section 8 of S. 2514 as reported (S. Rept. No. 98-487, pages 53-54), the Committee incorporates that portion of that report by reference.

### *Payments for Therapeutic and Rehabilitation Activity*

Section 602 of the Committee bill would require the VA to conduct a 39 month demonstration project—and submit by February 1, 1987, a report on the first 2 years' experience—under which the income received by veterans for their participation in VA incentive and compensated work therapy programs would not be counted as income for the purpose of VA pension programs. It would further specify that a veteran's participation in a VA incentive or compensated work therapy program will not be considered a basis for denying or discontinuing a total disability rating for VA compensation or pension purposes. On May 25, an identical provision, was included by the Committee in section 14 of S. 2514 as reported, the proposed "Veterans' Administration Health Care Amendments of 1954". For the reasons noted above, in the discussion of section 601 of the Committee bill ("Definition of Vietnam Era"), section 14 of S. 2514 was deleted by a floor amendment in contemplation of it being included in the Committee bill.

Rather than reiterate the explanation of and justification for this provision set forth in the portion of the "Discussion" in the Committee's report on S. 2514 dealing with section 14 of that bill (S. Rept. No. 98-487, pages 95-97), the Committee incorporates that portion of the report by reference.

### *Effective Date of Reduction of Certain Dependents' Allowances*

Under current law, section 3012(b) of title 38, United States Code, provides an exception to the general rule concerning the effective date of discontinuance of compensation, dependency and indemnity compensation, or pension, based on the termination of school attendance of a payee or a dependent of a payee. Section 3012(b)(7) currently provides that the benefits will not be reduced or discontinued until the last day of the month during which the student's school attendance is discontinued. This provides an additional period of benefits not generally allowable under the general rule, which would reduce or discontinue such benefits in accordance with the "facts found", that is, in this case, the date on which school attendance is discontinued.

Section 603 of the Committee bill would abolish this special exception and would thereby establish the effective date for a reduction or discontinuance of these benefits as the day following the date of last attendance at the educational institution. This change was proposed by the VA and would be in conformance with the rule governing discontinuance of benefits paid on behalf of certain dependents under age 18, which terminate as of the date of the dependent's eighteenth birthday. The Committee believes this provision will produce a more equitable result by providing VA benefits paid on behalf of eligible students only for the time such students are actually attending an educational institution.

### *Suspensions of Compensation and Pension Payments To Certain Institutionalized Veterans*

Under current law, section 3203(b)(1) of title 38, United States Code, provides that pension and compensation benefits paid to an incompetent veteran (having no spouse or child) who is hospitalized or institutionalized at Government expense, must be discontinued, if the veteran's estate equals or exceeds $1,500, and that pension or compensation benefits may not be reinstated until the estate is reduced to $500.

Section 604 of the Committee bill would amend section 3203(b)(1) to exclude the value of the veteran's home from the estate, unless there is no reasonable likelihood that the veteran will again reside in such home.

The Veterans' Administration proposed a similar legislative change because of the inequity that the current law imposes on some single incompetent veterans. The prepared testimony of Dorothy Starbuck, Chief Benefits Director of the Veterans' Administration, submitted for the June 27 hearings explains the reasons why the value of the veteran's home should be excluded from his or her estate:

> This $1,500 estate limitation applies to an incompetent veteran institutionalized at Government expenses who has no immediate family. If the veteran's estate exceeds $1,500, further payments of compensation or pension are withheld until the estate is reduced to $500. The purpose is to prevent the accumulation of monies not needed by the veteran and likely to descend, upon the veteran's death, to remote heirs or to escheat. The value of the veteran's home is, of course, part of his or her estate. If the veteran's compensation or pension payments were earmarked for home mortgage and other property-related payments, the veteran may be forced into default once withholding begins. We know of several cases in which veterans affected by the $1,500 limitation were homeless upon discharge from the hospital. Under our proposal, the value of the veteran's home would be excluded in the estate determination, except in cases where there is no reasonable probability of the veteran's eventual discharge from the institution.

The Committee believes that this provision would provide an equitable remedy to the harsh reality experienced by those single incompetent veterans, who may lose their homes because their VA compensation or pension benefits are terminated during temporary periods of hospitalization under the existing $1,500 estate limitation.

### *Deletion of Gender References*

Section 605 of the Committee bill would amend section 103 of title 38, United States Code, to remove various gender references that appear there. The Committee has been endeavoring for some time to remove these references and will continue this effort in the future.

### *Budget Act Waiver*

Various provisions of the Committee bill—for example, the cost-of-living increases in compensation, DIC, and GI Bill benefits—provide for new entitlement spending to take effect during fiscal year 1985. However, under section 303(a) of the Congressional Budget Act of 1974, it is not in order for the Senate to consider legislation providing entitlement spending to take effect during a fiscal year until the Congress has adopted a first concurrent resolution on the budget for that fiscal year. The Congress has not yet adopted a first budget resolution for fiscal year 1985.

In an effort to secure timely Senate consideration of the Committee bill, the Committee has by poll unanimously ordered reported and is filing simultaneously with this report a Senate resoltuion, pursuant to section 303(c) of the Budget Act, providing for a waiver of section 303(a) with respect to the Committee bill.

Under Budget Act section 303(c) that resolution will be referred to the Senate Committee on the Budget for not more than 10 days during which the Senate is in session. The Veterans' Affairs Committee urges prompt consideration and favorable action on that resolution and stands ready to assist in any way that it can with Budget Committee and Senate consideration thereof.

The text of the resolution reads as follows:

### S. Res.

Whereas the provisions of S. 2736 as reported, the proposed "Veterans' Administration Benefit Rate Increase and Program Improvement Act of 1984", would make cost-of-living adjustments, effective December 1, 1984, in the rates of Veterans' Administration compensation for service-connected-disabled veterans and dependency and indemnity compensation for survivors of veterans who have died from service-connected causes and, effective October 1, 1984, in the rates of GI Bill educational assistance and Veterans' Administration rehabilitation subsistence allowances; and

Whereas, since Senate consideration of S. 2736 at the present time, before a first concurrent resolution for fiscal year 1985 has been adopted, would violate section 303(a) of the Congressional Budget Act of 1974 in that the bill would provide new spending authority described in section 401(c)(2)(C) of that Act to become effective in fiscal year 1985, a waiver of section 303(a) of that Act is necessary to provide for the timely consideration of S. 2736. Now, therefore, be it

*Resolved by the Senate*, That, pursuant to section 303(c) of the Congressional Budget Act of 1974, section 303(a) of that Act be waived with respect to S. 2736 as reported.

### VETERANS' ADMINISTRATION BENEFIT RATE INCREASE AND PROGRAM IMPROVEMENT ACT OF 1984

Mr. CRANSTON. Mr. President, as the ranking minority member of the Committee on Veterans' Affairs, I am pleased to urge the Senate to approve S. 2736 as reported by the committee on September 17. As reported, this measure, the proposed Veterans' Administration Benefit Rate Increase and Program Improvement Act of 1984, contains provisions for a VA compensation cost-of-living adjustment and GI bill rate increase, along with a wide range of other provisions to improve benefit programs for our Nation's veterans especially those with service-connected and other serious disbabilities.

#### COMPENSATION RATE INCREASE

At the outset, Mr. President, I want to express my complete support for a cost-of-living adjustment, COLA, effective December 1, 1984, proposed in the pending measure for the rates of service-connected disability compensation for veterans and dependency and indemnity compensation [DIC] for the survivors of those who have died from service-connected causes. I was delighted to join with the distinguished chairman of the committee [Mr. SIMPSON] in introducing S. 2736 on June 7, 1984, and especially delighted that this increase will, if enacted, be effective on December 1 of this year—rather than on April 1, 1985, as the administration had proposed. Thus, the measure conforms to the provisions I authored last year in section 108 of Public Law 98-223 expressing the sense of the Congress that the effective date for compensation COLA's in fiscal year 1985 and beyond should be December 1, the same as the effective date for Social Security and VA pension COLA's.

Since the House of Representatives has also passed legislation, H.R. 5688, providing for a compensation/DIC increase effective December 1, 1984, it can be anticipated that this will be the effective date of whatever increase is enacted this year. Therefore, as I did last year, I urge the administration, in its preparation of the budget for fiscal year 1986, to begin to pay heed, which it failed to do last year, to section 108's expression of the sense of the Congress that budgets for fiscal year 1985 and subsequent years should allow for December 1 effective dates for compensation increases.

Mr. President, I wish to stress the importance of inclusion in the bill as reported of the provisions of S. 2736 as introduced directing that, if the Social Security/VA pension COLA that will take effect on December 1 by operation of law of this year is not 4.7 percent as provided for in the bill on the basis of the Congressional Budget Office's official projection of the increase in the Consumer Price Index [CPI] from the third quarter of fiscal year 1983 to the third quarter of fiscal year 1984, the VA compensation COLA will be adjusted to correspond to the actual Social Security/VA pension COLA. By virtue of this provision, we would be keeping intact the general congressional practice over the last 6 years of aligning the VA compensation COLA with the percentage of the Social Security/VA pension COLA's.

I would also note that this provision would mesh with the amendment No. 3423 of the distinguished Senator from New York [Mr. MOYNIHAN], adopted by the Senate in H.R. 1428 and passed on July 26. Under that amendment, the Social Security Act provisions limiting automatic Social Security COLA's to years in which the COLA would be at least 3 percent would be made inapplicable to the December 1984 COLA. If the Moynihan amendment were enacted, the committee bill would ensure both that the December 1984 compensation/DIC COLA would be the same percentage as the Social Security/VA pension COLA and that the compensation/DIC COLA would be provided, even if the Social Security increase were computed as less than 3 percent.

Finally, in this regard, it should be noted that the informal CBO estimate at present for the Social Security CPI increase is 3.2 percent and the budget resolution for fiscal year 1985, House Concurrent Resolution 280, recently agreed to in conference and adopted allows room in Function 700, Veterans' Benefits and Services, for a compensation COLA in that amount.

#### GI BILL RATE INCREASE

I also fully support the provisions derived from S. 2737—a measure which I also joined the distinguished chairman in introducing on June 7—that would increase the rates of GI bill and vocational rehabilitation training, education, and subsistence allowances. The increases provided by this measure, consistent with the budget recommendations this committee made in March—would be 10 percent, effective October 1, 1984. Although his percentage is less than I proposed when I introduced S. 9 a year and a half ago, and less than the administration finally got around to agreeing to propose a year later, it would take effect 3 months sooner than the administration has proposed. Our October 1 effective date would mean that more assistance will be available to individual veterans throughout the upcoming fiscal year than would be the case under the administration's approach and that the assistance would be available near the beginning of the school year when the costs of education are greatest.

#### OTHER PROVISIONS

I'm delighted that provisions derived from a number of other measures I have introduced or proposed as amendments in committee are included in S. 2736 as reported.

Sections 110 and 401 are derived from Senate. 2759, which I introduced on June 13, 1984, and from draft proposals on which I requested the comments of witnesses following our June 27 hearing. These provisions, in order to help identify existing disincentives to work and how to overcome them, would establish two 3-year pilot programs providing for trial work periods. These programs, which the Administrator would be given discretion to continue for a fourth year, are patterned after the trial work periods for Social Security Act disability recipients. One program would be available for veterans with service-connected disability ratings of 100 percent based on individual unemployability and the other, for totally disabled veteran-pensioners. I am very grateful for the support and constructive responses of the veterans' organizations on these proposals, as well as for the efforts of the committee's staff in the development of these provisions. I believe that the provisions in Senate 2736 as reported could be of great value to seriously disabled veterans who would like to have the opportunity to return to the workforce.

Mr. President, I would note that these are pilot programs, with reports to be submitted by the Administrator on the first 3 years' experience under them. As the committee report notes, the structure of the programs are specifically designed in light of their time-limited nature. Thus, the committee has made no decisions on what modifications might be needed if the programs were to be made permanent at some later date, for example, whether and, if so, how to provide a subsequent trial work opportunity to a veteran who has participated earlier in a trial work period under one of the pilot programs without succeeding in achieving permanent employability.

Section 210 contains provisions, similar to ones I proposed and the committee and the Senate have approved three times before, to toll a veteran's or eligible person's delimiting period when the individual has been prevented from using his or her GI bill benefits on account of a drug or alcohol dependence or abuse condition from which he or she has recovered. These provisions, which I have been pursuing since 1979 and are strongly supported by the distinguished Senator from Minnesota [Mr. BOSCHWITZ], were incorporated into the pending measure at our request. I am pleased that the committe is once again pursuing the enactment of these provisions.

Section 212 would require that the Administrator, prior to making any changes in the enrollment certifications required to be submitted by educational institutions on behalf of their GI bill students, consult with and obtain the recommendations of the VA's Advisory Committee on Education. This provision, which I authored, is designed to ensure that, before the VA proceeds with any proposal such as the one pending to require schools to certify attendance on a term-by-term basis, published in the Federal Register on June 30, 1983, the Advisory Committee first make recommendations on the proposal and possible alternatives to accomplish the goal of reducing overpayments. This process would help ensure that any changes that are implemented are carefully reviewed and considered by the education experts on the Advisory Committee who can evaluate fully the effect and workability of any such proposal. A subcommittee of the Advisory Committee is already reviewing the new proposal.

Section 301, derived from Senate 2268 which I introduced on February 7, 1984, would extend the authority for veterans readjustment appointments—[VRA's]—by one year, until September 30, 1985. Although the measure I introduced and which committee members Randolph, Matsunaga, and DeConcini, as well as Senator Byrd, cosponsored, proposed a 3-year extension, a 1-year extension was all we could reach agreement on for this program which has provided employment opportunities in the Federal Government to hundreds of thousands of Vietnam-era veterans. The bill as reported also incorporates, as I proposed, an administration-requested provision to provide first-year VRA appointees with certain limited appeal rights.

Section 302, derived from Senate 2760 which I introduced with Senator DeConcini on June 13, 1984, would extend by 6 months—from March 1 to September 1, 1985—the date by which a veteran must enter a program of training under the Emergency Veterans' Job Training Act of 1983 and extend the "lifetime" of the certificate of eligibility furnished veterans under that program from 60 to 90 days. Although our measure would also have extended by 6 months the period of time that veterans have to apply for certification under the program, I believe the provisions of S. 2736 as reported will go a long way toward helping veterans who have been determined to need job training assistance.

The Emergency Veterans' Job Training Act of 1983 [EVJTA], enacted on August 15, 1983, was designed to provide employers with incentives, in the form of payments to defray training costs, to hire and train long-term unemployed, Korean-conflict and Vietnam-era veterans. Section 17(a) of EVJTA provided that, if funding for the program had been appropriated and made available to the VA by October 1, 1983, a veteran desiring to participate would be required to apply by September 30, 1984, and to enter a program of training by December 31, 1984. However, because of the possibility that appropriations might not become available by that date, I proposed and the law incorporated a tolling period. Under this mechanism, in section 17(b) of the law, the veteran has until 1 year after the date on which appropriations are made available for the program to apply and until 15 months after that to enter training.

The first $75 million in funds for the program were appropriated on November 14, 1983, as part of a continuing appropriations resolution for fiscal year 1984, Public Law 98-151. Since these funds were not released by the Office of Management and Budget to the VA until November 29, 1983, eligible veterans have until November 29, 1984, to apply and until March 1, 1985, to enter training. The remainder of the full amount, $150 million, authorized by section 16 of EVJTA for fiscal year 1984 for payments to employers under this program was provided when a second $75 million appropriation was included in the fiscal year 1984 supplemental appropriations measure, Public Law 98-161, enacted on November 30, 1983.

Despite the very high degree of interest that veterans have shown in the program, it got off to a very slow start in terms of the placement of eligible veterans in approved jobs. As of August 20, according to the VA, 237,387 veterans had applied for the program and 192,274 had been certified as eligible. Also as of that date, 25,707 employers had been approved to offer training for 57,256 job slots. This means that jobs are available or could be made available for over 29 percent of those eligible for the program. However, as of that date, only 12,626 veterans have been placed in jobs under EVJTA.

Mr. President, I have been dissatisfied with the performance under the program thus far and continue to believe strongly that the program can be of much greater assistance in meeting the needs of long-term unemployed veterans of the Vietnam era and the Korean conflict. A partial cause for the disappointing performance may have been that the program became effective at the beginning of the holiday season, which may have slowed the rate at which employers began to participate in the program at the outset.

However, Mr. President, I'm concerned that at the root of the failure of the program to be as successful as it could be is the failure on the part of the Veterans' Administration and the Department of Labor, the agencies jointly responsible for implementation of the program, to be sufficiently aggressive in carrying out their responsibilities, particularly their placement responsibilities, that is, their responsibilities for matching eligible veterans with available job slots.

Thus, I'm pleased that the committee has concurred in my conclusion that the program should be given additional time in order to achieve its potential.

Section 501 of the pending measure, derived from S. 2264 and S. 2451, measures which I introduced on February 7 and March 20, 1984, respectively, the latter of which is cosponsored by Senators Randolph, Matsunaga, DeConcini, and Sarbanes, would grant a 10-percent increase in the rates of maximum assistance available for adapted housing for certain service-connected, severely disabled veterans. In the case of veterans receiving assistance under the major program, the so-called Wheel-Chair Home Program, this means that the maximum level of assistance would be increased from $32,500 to $35,750. In the case of veterans receiving assistance for home adaptations necessitated by the loss or loss of use of both upper extremities or by blindness, the level of assistance would be increased from $5,000 to $5,500. Although these rates are not as much of an increase as we had proposed, I am gratified that the committee agreed to an increase in the rates that will help ameliorate the erosion in the value of these benefits made by increases in housing costs.

Section 502, which is identical to Senate 2267 which I introduced on February 7, 1984, would grant an increase in the automobile assistance allowance. This 10-percent increase, from $4,400 to $4,840, which is cosponsored by Senators Randolph, Matsunaga, and DeConcini, would help ameliorate the erosion in the value of this benefit for certain service-connected, severely disabled veterans made by increases in automobile costs.

Other provisions in the committee bill, Mr. President, would repeal a VA reporting requirement relating to deceptive advertising by educational institutions, establish a termination date for certain compensation and pension benefits paid on behalf of dependents enrolled in higher education, modify provisions specifying what is considered to be part of the veteran's estate for purposes of payment of benefits to certain institutionalized, incompetent veterans, and delete various gender references in title 38, United States Code.

Finally, Mr. President, because of Budget Act procedural considerations, two provisions which I authored that were previously contained in S. 2514 as reported by the committee on May 25, 1984, but which were deleted from that measure during the Senate's consideration of it on August 9, have been incorporated into S. 2736 as reported.

### DEFINITION OF VIETNAM ERA

The first of these provisions, in section 601, is derived from section 2 of S. 2269 as introduced and was included as section 8 of S. 2514 as reported. This provision would modify the definition of the Vietnam era for title 38 purposes to include, in the case of those who served in the Republic of Vietnam, the period beginning on February 28, 1961, the date established in Public Law 89-257 for acceptance of foreign awards for service in Vietnam, and ending on May 7, 1975, the current law ending date for the Vietnam era.

Mr. President, the veterans benefits that under this provision individuals who served in Vietnam during the period from February 28, 1961, to August 4, 1964 the current starting date from the Vietnam era, but in no other period of war might receive, would include nonservice-connected pension benefits if they also satisfy the disability or age criteria and the income and net-worth limitations of that program; readjustment counseling; certain burial benefits; loan guaranty benefits in certain cases; and certain education, on-the-job training, and apprenticeship benefits for educationally disadvantaged, unskilled, or unemployed veterans.

As noted above, the starting date for the Vietnam era in current law is August 5, 1964. This date coincides with the Gulf of Tonkin incident, unquestionably a watershed event in the history of U.S. involvement in Vietnam, and the resolution adopted by the Congress following that incident. However, there were many U.S. troops in the Republic of Vietnam prior to August 1964, and our service personnel faced combat conditions in that country well prior to that time.

S. 2269, as introduced, would have changed the starting date to July 8, 1959, the date of death for the two military personnel whose names were listed first in the chronological order on the Vietnam Veterans Memorial dedicated on The Mall in Washington, DC, on November 11, 1982. Subsequent to the introduction of that bill, however, it was learned that, among the new names added to the memorial last year, was that of an individual who was killed by hostile action on October 21, 1957. Recognizing the possibility that still earlier deaths might come to light, I considered other dates. Among those considered was July 1, 1958, a date suggested by the Veterans of Foreign Wars, in testimony before the committee in 1983 on similar legislation, because that was the beginning date for award of the Armed Forces Expeditionary Medal for service in Vietnam. Another date considered was December 22, 1961, the date for the beginning of the Vietnam era in the Congressional Charter of The American Legion, set forth in section 45 of Title 36, United States Code. That date is the date of the first direct combat-related death of a member of the Military Advisory Command Vietnam.

After considering these alternatives, I proposed February 28, 1961. As I noted earlier, this is the date, set forth in Public Law 89 257, after which U.S. service personnel could accept awards from the Government of the Republic of Vietnam in connection with service in Vietnam. In the reports on the legislation, H.R. 3045 in the 89th Congress that was enacted as this public law, the Committee on Armed Services in both the House of Representatives and the Senate indicated that this date was selected because that was the approximate date on which American military advisers began to accompany "their Vietnamese counterparts on military operations"—House Report No. 89-239, page 2; Senate Report No. 89-800, page 2. That same date is used in other statutory contexts, including section 112 of the Internal Revenue Code, title 26, United States Code, relating to the treatment of income for tax purposes for members of Armed Forces serving in Vietnam in certain circumstances, and in section 329(a) of the Immigration and Nationality Act [INA], section 1440 of title 8, United States Code, relating to expedited naturalization based on wartime service. In addition, as noted in a letter from a Department of Defense representative to the chairman of the House Committee on the Judiciary in connection with that committee's consideration in 1966 of the INA provision as noted above, February 28, 1961, is the date selected by the Department of the Army for the award of the combat infantryman's badge and the combat medal badge.

As was noted in the committee report accompaning S. 2514, Senate Report No. 98-467, page 54—the committee believes that bringing the starting date of the Vietnam era for title 38 purposes into conformity with the above provisions for those who actually served in Vietnam would be an appropriate action that would make access to veterans benefits on the basis of service in Vietnam during wartime more consistent with other laws and regulations relating to such service.

### PAYMENTS FOR THERAPEUTIC AND REHABILITATION THERAPY

Mr. President, the other provision in the pending measure, section 602, which was included originally in S. 2514 as reported by our committee but deleted, because of procedural Budget Act considerations would require the VA to conduct a demonstration project under which income received by veterans for their participation in VA incentive and compensated-work-therapy programs would not be counted as income for the purpose of VA pension programs. In addition, the provisions would specify that a veteran's participation in a VA incentive or compensated-work-therapy program would not be considered a basis for denying or discontinuing a total disability rating for VA compensation or pension purpose.

Mr. President, under section 618 of title 38, United States Code, the VA operates, in the Department of Medicine and Surgery, therapeutic and rehabilitation programs under which participants—VA patients, either inpatients, residents in domiciliary facilities, or outpatients, selected for such programs—perform services for which they receive a small payment. These programs are known commonly as incentive therapy [IT] and compensated-work-therapy [CWT] programs. IT programs involve patients being assigned duties within the treating VA medical center whereas CWT programs involve work under VA contracts with private industry. Both programs are designed to promote self-sufficiency in the participants.

In 1983, the VA's Inspector General conducted an audit that indicated that many veterans participating in these programs who were also in receipt of VA pension were not reporting incomes received from their participation in IT or CST programs. In response to this report, the VA's Department of Medicine and Surgery instituted a program of income verification pursuant to which VA medical facilities, effective approximately January 1, 1984, began to inform appropriate regional offices of the Department of Veterans' Benefits of the amounts paid to veteran patient participants in these programs.

Mr. President, because of numerous contacts from staff of IT and CWT programs, other VA employees, participants in these programs, veterans' service organizations, and others, I proposed legislation in amendment No. 2850 to specify that payments to participants in these programs are not to be counted as income for purposes of VA pension.

As is noted in the Committee report accompanying Senate 2514, Senate Report No. 98-487, pp. 67-68—this proposal received wide support during the committee's April 11 hearing.

In light of the record before the committee on this issue, the committee determined that it was important to take steps with respect to the IT and CWT programs and, more specifically, with reference to the relationship between income earned by participants in these programs and their eligibility for VA pension. However, instead of the permanent solution I had proposed, the committee agreed to a provision requiring the VA to conduct a 3-year demonstration project, ending December 31, 1987, during which income earned by participants for the participation in IT and CWT programs would not be counted in determining annual income for VA pension purposes. The Administrator would be required to submit a report by February 1, 1987, on the experience under this demonstration project during fiscal years 1985 and 1986. This short-term action was taken because of a lack of compehensive information on, first, the extent to which participants in the program are in receipt of VA pension, second, the extent to which such participants are adversely affected by counting income earned by their participation in determining annual income for pension purposes, and; third, the extent to which veterans, because of participation in the program, have gained employment and are no longer in receipt of a pension.

Mr. President, I have a very strong, personal interest in the IT and CWT programs and intend to monitor closely the VA's efforts under this demonostration project.

### HOME LOAN GUARANTY INCREASE NOT INCLUDED

Mr. President, I must mention resolution of one matter of particular disappointment to me—the noninclusion in this bill of the proposal I made in Senate 2451, to which I referred earlier, to increase the maximum amounts of VA home loan guaranty assistance. I had proposed that the maximum amount of the guaranty for conventional housing be increased from $27,500 to $35,000, and for manufactured housing from $20,000 to $22,000. I regret very much that this proposal was not incorporated in the pending measure.

I note, however, that, in connection with H.R. 5617, the House has approved increases in these amounts to $30,000 and $22,000, respectively. Therefore, this matter will be included in our negotiations on the final package, and I intend to do all I can to secure enactment of an increase in these amounts.

### CONCLUSION

Mr. President, the items contained in the pending measure are, for the most part, intended to address the needs of this Nation's highest priority category of veterans—those who suffer from service-connected disabilities as the result of service to this Nation in uniform. The needs of these veterans and their survivors and dependents have always been uppermost in our committee's consideration, and I am delighted that the pending measure reflects our committee's continuing commitment to them.

Before closing, Mr. President, I want to take this opportunity to express my deep appreciation to the distinguished chairman of the committee [Mr. SIMPSON] for his fine work in the development of the pending measure. The cooperation and coordination between the majority and minority members and staffs of the committee continues to be a hallmark of our approach to legislation dealing with veterans' benefits. I'd like to extend my thanks to all members of the committee who contributed to this measure and staff assisting them on veterans' issues and express particiular gratitude to Tony Principi, Julie Susman, and Cathy McTighe on the majority staff and Babette Polzer, Ed Scott, and Jon Steinberg on the minority staff for their contributions to this important legislation and their fine work.

Mr. President, I urge that the Senate approve the pending measure unanimously.

### VETERANS ADMINISTRATION BENEFIT RATE INCREASE AND PROGRAM IMPROVEMENT ACT OF 1984, OCTOBER 1984

Mr. THURMOND. Mr. President, I rise in support of S. 2736, the Veterans' Administration Benefit Rate Increase and Program Improvement Act of 1984. S. 2736 is sound legislation containing many significant provisions that will enhance and improve the benefits to our deserving veterans.

A Nation which is grateful to its veterans for their service and sacrifice should be willing to compensate adequately those persons who are disabled as a result of their military service. Of particular importance is the provision in this legislation which provides for a 4.7 percent cost-of-living increase in the rates of disability compensation, and dependency and indemnity compensation, effective December 1, 1984. This increase ensures that these benefits, which are received by veterans and their surviving spouses and dependents, keep pace with inflation.

Mr. President, it is also fitting that our Nation acknowledge the great debt owed to its veterans by providing educational benefits which assist servicemen in their readjustment to civilian life. I am pleased that S. 2736 includes a provision which provides for a 10-percent increase for the educational benefit programs of the Veterans' Administration. This rate increase, which affects the subsistence and assistance allowances connected with participation in VA rehabilitation and GI bill education programs, is intended to keep pace with the increased costs of living and educational expenses since the last rate adjustment in 19[illegible].

This legislation contains other provisions designed to assist veterans in their efforts to find suitable employment. Significantly, S. 2736 includes a provision which extends by 1 year the authority for noncompetitive appointments of Vietnam-era veterans to certain jobs in the Federal Government. Also, the bill amends the Emergency Veterans' Job Training Act of 1983 to extend by 6 months the date on which certified veterans must commence participation in job training programs and extends the life of certificates of program eligibility from 60 to 90 days.

Mr. President, S. 2736 is meritorious legislation, and I commend it to my colleagues. Additionally, Mr. President, as the 98th Congress moves toward the completion of its work, I would like to take this opportunity to commend the chairman of the Senate Committee on Veterans' Affairs, Senator ALAN K. SIMPSON of Wyoming, for his many fine efforts on behalf of veterans since becoming chairman of the committee. Our Nation's veterans benefit greatly from his service and excellent leadership.

Mr. DOMENICI. Mr. President, I rise in strong support of the pending Veterans' Administration Benefit Rate Increase and Program Improvement Act of 1984. I commend the distinguished chairman of the Veterans' Affairs Committee, Senator SIMPSON, and the members of the committee for reporting a bill to modify and improve important veterans benefit programs.

Mr. President, many fine men and women of my home State of New Mexico, who have selflessly served their country to protect our freedom, will applaud the program improvements included in this bill. Of particular interest to New Mexico veterans is the extension of the availability of existing appropriations and the time allowed for participation in the Emergency Veterans' Job Training Program, and the extension of the life of certificates of eligibility from 60 to 90 days.

The bill now before us also provides two benefit increases that are especially important to our service-connected disabled veterans and our Vietnam-era veterans.

First, the bill provides a full cost-of-living increase in January 1985 for disabled veterans who receive compensation benefits. I commend my colleagues on the Veterans' Affairs Committee for including a provision to adjust the amount of the compensation COLA to the actual COLA that is provided for Social Security benefits if the cost-of-living differs from our original estimate of 4.7 percent. It does appear that such an adjustment will be appropriate in light of recent economic data. Enactment of these provisions will ensure that the compensation COLA is paid on the same schedule as that for Social Security and veterans pension benefits, and that the actual cost-of-living increase is equitably provided to recipients of Federal benefits.

Second, I am especially pleased that this bill includes a 10-percent increase for GI bill education and rehabilitation benefits for our Vietnam-era veterans effective on October 1, 1984. I joined several of my colleagues in cosponsoring an amendment to the Senate budget resolution to accommodate this rate increase, which would be the first enacted since 1980. I share in the hope that this rate increase will assist the 535,000 veterans currently in training to finish their education, and that it will also encourage eligible veterans to enroll in an education program.

I am pleased to advise my colleagues that these two provisions are consistent with the conference agreement on the first budget resolution for fiscal year 1985. I urge my colleagues to vote in favor of S. 2736 as reported so that we may ensure the timely implementation of these benefit increases for our wartime veterans.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. STEVENS. Mr. President, I now ask the Chair lay before the Senate Calendar Order No. 1302, H.R. 5688.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 5688) to provide a cost-of-living increase for fiscal year 1985 in the rates of compensation paid to veterans with service-connected disabilities and the rates of dependency and indemnity compensation paid to survivors of such veterans, and for other purposes.

Mr. STEVENS. Mr. President, I move to strike all after the enacting clause and insert the text of S. 2736, as amended.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall it pass?

The bill (H.R. 5688), as amended, was passed.

The title was amended so as to read:

The title was amended so as to read: "A bill to amend title 38, United States Code, to increase the rates of disability compensaiton for disabled veterans and of dependency and indemnity compensation for surviving spouses and children of veterans, to increase the rates of subsistence and educational assistance allowances for veterans pursuing vocational rehabilitation programs under chapter 31 and for veterans and eligible persons pursuing programs of education or training under chapter 34, 35, or 36, and to establish trial work period pilot projects for certain veterans receiving disability compensation or pension; and for other purposes".

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I now ask unanimous consent that S. 2736 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

## APPENDIX D

[From the Congressional Record, Vol. 130, No. 132, pp. S13872-S13885--Senate, Oct. 9, 1984]

### VETERANS COMPENSATION

**Mr. BAKER.** Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 5688.

The **PRESIDING OFFICER** laid before the Senate the following message from the House of Representatives:

*Resolved*, That the House agree to the amendments of the Senate to the bill (H.R. 5688) entitled "An Act to amend title 38, United States Code, to provide a cost-of-living increase for fiscal year 1985, in the rates of compensation paid to veterans with service-connected disabilities and the rates of dependency and indemnity compensation paid to survivors of such veterans, and for other purposes", with the following amendments: In lieu of the matter inserted by the amendment of the Senate to the text of the bill, insert:

#### SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE

SECTION 1. (a) This Act may be cited as the "Veterans' Benefits Improvement Act of 1984".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

### TITLE I—DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION

### PART A.—RATE INCREASES

#### DISABILITY COMPENSATION

SEC. 101. (a) Section 314 is amended—

(1) by striking out "$64" in subsection (a) and inserting in lieu thereof "$66";

(2) by striking out "$118" in subsection (b) and inserting in lieu thereof "$122";

(3) by striking out "$179" in subsection (c) and inserting in lieu thereof "$185";

(4) by striking out "$258" in subsection (d) and inserting in lieu thereof "$266";

(5) by striking out "$364" in subsection (e) and inserting in lieu thereof "$376";

(6) by striking out "$459" in subsection (f) and inserting in lieu thereof "$474";

(7) by striking out "$579" in subsection (g) and inserting in lieu thereof "$598";

(8) by striking out "$671" in subsection (h) and inserting in lieu thereof "$692";

(9) by striking out "$755" in subsection (i) and inserting in lieu thereof "$779";

(10) by striking out "$1,255" in subsection (j) and inserting in lieu thereof "$1,295";

(11) by striking out "$1,559" and "$2,185" in subsection (k) and inserting in lieu thereof "$1,609" and "$2,225", respectively;

(12) by striking out "$1,559" in subsection (l) and inserting in lieu thereof "$1,609";

(13) by striking out "$1,719" in subsection (m) and inserting in lieu thereof "$1,774";

(14) by striking out "$1,954" in subsection (n) and inserting in lieu thereof "$2,017";

(15) by striking out "$2,185" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$2,255";

(16) by striking out "$938" and "1,397" in subsection (r) and inserting in lieu thereof "$968" and "$1,442", respectively;

(17) by striking out "$1,404" in subsection (s) and inserting in lieu thereof "$1,449"; and

(18) by striking out "$271" in subsection (t) and inserting in lieu thereof "$280".

(b) The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

#### ADDITIONAL COMPENSATION FOR DEPENDENTS

SEC. 102. Section 315(1) is amended—

(1) by striking out "$77" in clause (A) and inserting in lieu thereof "$79";

(2) by striking out "$128" and "$41" in clause (B) and inserting in lieu thereof "$132" and "$42", respectively;

(3) by striking out "$52" and "$41" in clause (C) and inserting in lieu thereof "$54" and "42", respectively;

(4) by striking out "$62" in clause (D) and inserting in lieu thereof "$64";

(5) by striking out "$139" in clause (E) and inserting in lieu thereof "$143"; and

(6) by striking out "$116" in clause (F) and inserting in lieu thereof "$120".

#### CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS

SEC. 103. Section 362 is amended by striking out "$338" and inserting in lieu thereof "$349".

#### DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES

SEC. 104. (a) Subsection (a) of section 411 is amended to read as follows:

"(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

| "Pay grade | Monthly rate | Pay grade | Monthly rate |
|---|---|---|---|
| E-1 | $476 | W-4 | $682 |
| E-2 | 490 | O-1 | 602 |
| E-3 | 502 | O-2 | 621 |
| E-4 | 535 | O-3 | 665 |
| E-5 | 549 | O-4 | 703 |
| E-6 | 561 | O-5 | 775 |
| E-7 | 589 | O-6 | 873 |
| E-8 | 621 | O-7 | 944 |
| E-9 | [1] 649 | O-8 | 1,035 |
| W-1 | 602 | O-9 | 1,111 |
| W-2 | 626 | O-10 | [2] 1,217 |
| W-3 | 644 | | |

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $700.

"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,305.".

(b) Subsection (b) of such section is amended by striking out "$53" and inserting in lieu thereof "$55".

(c) Subsection (c) of such section is amended by striking out "$139" and inserting in lieu thereof "$143".

(d) Subsection (d) of such section is amended by striking out "$68" and inserting in lieu thereof "$70".

#### DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 105. Section 413 is amended—

(1) by striking out "$233" in clause (1) and inserting in lieu thereof "$240";

(2) by striking out "$334" in clause (2) and inserting in lieu thereof "$345";

(3) by striking out "$446"; and

(4) by striking out "$432" and "$87" in clause (4) and inserting in lieu thereof "$448" and "$90", respectively.

#### SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 106. Section 414 is amended—

(1) by striking out "$139" in subsection (a) and inserting in lieu thereof "$143";

(2) by striking out "$233" in subsection (b) and inserting in lieu thereof "$240"; and

(3) by striking out "$118" in subsection (c) and inserting in lieu thereof "$122".

#### EFFECTIVE DATE

SEC. 107. Sections 101 through 106 shall take effect on December 1, 1984.

### PART B—COMPENSATION PROGRAM AMENDMENTS

#### TRIAL WORK PERIOD AND VOCATIONAL REHABILITATION PILOT PROJECT

SEC. 111. (a)(1) Subchapter VI of chapter 11 is amended by adding at the end the following new section:

**"§ 363. Temporary program for trial work periods and vocational rehabilitation for certain veterans with total disability ratings**

"(a)(1) The disability rating of a qualified veteran who begins to engage in a substantially gainful occupation during the program period may not be reduced on the basis of the veteran having secured and followed a substantially gainful occupation unless the veteran maintains such an occupation for a period of 12 consecutive months.

"(2) For purposes of this section:

"(A) The term 'qualified veteran' means a veteran who has a service-connected disability, or service-connected disabilities, not rated as total but who has been awarded a rating of total disability by reason of inability to secure of follow a substantially gainful occupation as a result of such disability or disabilities.

"(B) The term 'program period' means the period beginning on February 1, 1985, and ending on January 31, 1989

"(b) During the program period, the Administrator shall make counseling services described in section 1504(a)(2) of this title and placement and postplacement services described in section 1504(a)(5) of this title available to each qualified veteran (whether or not the veteran is participating in a vocational rehabilitation program under chapter 31 of this title).

"(c)(1)(A) Except as provided in paragraph (4) of this subsection, in the case of each award during the program period of a rating of total disability described in subsection (a)(2)(A) of this section to a veteran, the Administrator shall provide to the veteran, at the time that notice of the award is provided to the veteran, a statement providing—

"(i) notice of the provisions of this section;

"(ii) information explaining the purposes and availability of and eligibility for, and the procedures for pursuing, a vocational rehabilitation program under chapter 31 of this title; and

"(iii) a summary description of the scope of services and assistance available under that chapter.

"(B) After providing the notice required under subparagraph (A) of this paragraph to a veteran, the Administrator shall arrange as promptly as is practical for the veteran to be provided an evaluation in order to make a determination as to whether the achievement of a vocational goal by the veteran is reasonably feasible. Such evaluation shall include a personal interview of the veteran by a Veterans' Administration employee who is trained in vocational counseling. The Administrator shall provide the veteran with reasonable notice of the schedule for the evaluation.

"(2) If the veteran fails, for reasons other than those beyond the veteran's control, to participate in an evaluation under paragraph (1)(B) of this subsection in the manner required by the Administrator in order to make the determination described in that paragraph, the Administrator shall reduce the veteran's disability rating to the rating that would be applicable to the veteran but for the determination of the veteran's inability to secure or follow a substantially gainful occupation. Any such reduction shall remain in effect for the duration of such failure.

"(3)(A) If, after completion of an evaluation under paragraph (1)(B) of this subsection, the Administrator determines that achievement of a vocational goal by the veteran is reasonably feasible, the Administrator shall formulate an individualized written plan of vocational rehabilitation for the veteran under chapter 31 of this title.

"(B) If the Administrator determines that the veteran has failed to pursue (or to continue to pursue) the vocational rehabilitation program described in such plan, the Administrator shall provide the veteran with notice that, if the veteran fails, for reasons other than those beyond the veterans' control, to initiate or resume pursuit of such program within 60 days the Administrator provided such notice (or such longer period as the Administrator determines is the shortest period within which it is reasonably feasible for the veteran to initiate or resume pursuit), the Administrator will provide for the results of the evaluation to be considered in the next scheduled review of the veteran's eligibility for a rating of total disability based on inability to secure or follow a substantially gainful occupation. Unless the veteran initiates or resumes such pursuit within such 60 days (or such longer period, if applicable), the Administrator shall provide for such results to be so considered.

"(4) This subsection does not apply with respect to a veteran as to whom the Administrator determines that an evaluation of vocational rehabilition potential or achievement of a vocational goal is not reasonably feasible.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"363. Temporary program for trail work periode and vocational rehabilitation for certain veterans with total disability ratings.".

(b)(1) Not later than April 1, 1985, the Administrator of Veterans' Affairs shall provide to each veteran described in paragraph (2) a statement providing—

(A) information explaining the provisions of section 363(b) of title 38, United States Code (as added by subsection (a)(1));

(B) information explaining the purposes and availability of and eligibility for, and the procedures for pursuing, a vocational rehabilitation program under chapter 31 of such title; and

(C) a summary description of the scope of services and assistance available under that chapter.

(2)(A) A veteran to whom a statement is to be provided under paragraph (1) is a veteran who has a service-connected disability, or service-connected disabilities, not rated as total but who, as of January 31, 1985, has been awarded a rating of total disability by reason of a determination of inability to secure or follow a substantially gainful occupation as a result of such disability or disabilities.

(B) Notice under paragraph (1) need not be provided to a veteran who has a rating of total disability described in subparagraph (A) which is protected by the first sentence of section 110 of title 38, United States Code.

(C) Not later than April 15, 1988, the Administrator of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the results of the implementation of section 363 of title 38, United States Code (as added by subsection (a)(1)), during the three-year period beginning on February 1, 1985. The report shall include—

(1) information regarding—

(A) the number of veterans with a disability rating of total based on inability to secure or follow a substantially gainful occupation who during such period followed a substantially gainful occupation for a period of 12 consecutive months and the work experience of those veterans and their disability ratings after completing such 12-month period and (if known) the number of veterans with such a rating who during the period covered by the report followed a substantially gainful occupation but did not maintain employment in it for a period of 12 consecutive months,

(B) the number of veterans who during the period covered by the report were provided with evaluations under subsection (b) of such section,

(C) the number of veterans provided such evaluations for whom a plan of vocational rehabilitation was formulated pursuant to such subsection,

(D) the number of veterans for whom such a plan was formulated who elected, and who did not elect, to pursue a vocational rehabilitation program,

(E) the extent to which those veterans who elected to pursue such a program completed the program, and

(F) the subsequent work experience and disability ratings of the veterans who were provided such evaluatons;

(2) a tabulation of the reasons given by such veterans for not electing to pursue such a program by those who did not elect to pursue such a program; and

(3) the Administrator's assessment of the value (including the cost-effectiveness) and effect of such implementation and any recommendations of the Administrator for administrative and legislative action based on such results and assessment.

### TECHNICAL AMENDMENT

Sec. 112. (a) Section 335 is amended by striking out "50 per centum" and inserting in lieu thereof "30 percent".

(b) The amendment made by subsection (a) shall take effect as of October 1, 1978.

## TITLE II—VETERANS' REHABILITATION, EDUCATION, AND EMPLOYMENT PROGRAMS

### PART A—RATE INCREASES

### RATES OF REHABILITATION SUBSISTENCE ALLOWANCES FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES

Sec. 201. The table contained in section 1508(b) is amended to read as follows:

| "Column I | Column II | Column III | Column IV | Column V |
|---|---|---|---|---|
| Type of program | No dependents | One dependent | Two dependents | More than two dependents |
| | | | | The amount in column IV, plus the following for each dependent in excess of two: |
| Institutional training: | | | | |
| Full-time | $310 | $384 | $452 | $33 |
| Three-quarter-time | 233 | 288 | 339 | 25 |
| Half-time | 155 | 193 | 227 | 17 |
| Farm cooperative, apprentice, or other on-job training: | | | | |
| Full-time | 271 | 327 | 377 | 34 |
| Extended evaluation: | | | | |
| Full-time | 310 | 384 | 452 | 33 |
| Independent living training: | | | | |
| Full-time | 310 | 384 | 452 | 33 |
| Three-quarter | 233 | 288 | 339 | 25 |
| Half-time | 155 | 193 | 227 | 17". |

### RATES OF GI BILL EDUCATIONAL ASSISTANCE FOR VIETNAM-ERA VETERANS

Sec. 202. Chapter 34 is amended as follows:

(1) The table contained in paragraph (1) of section 1682(a) is amended to read as follows:

| "Column I | Column II | Column III | Column IV | Column V |
|---|---|---|---|---|
| Type of program | No dependents | One dependent | Two dependents | More than two dependents |
| | | | | The amount in column IV, plus the following for each dependent in excess of two: |
| Institutional training: | | | | |
| Full-time | $376 | $448 | $510 | $32 |
| Three-quarter-time | 283 | 336 | 383 | 24 |
| Half-time | 188 | 224 | 255 | 17 |
| Cooperative | 304 | 355 | 404 | 23". |

(2) Section 1682(b) is amended by striking out "$342" and inserting in lieu thereof "$376".

(3) The table contained in section 1682(c) is amended to read as follows:

| "Column I | Column II | Column III | Column IV | Column V |
|---|---|---|---|---|
| Basis | No dependents | One dependent | Two dependents | More than two dependents |
| | | | | The amount in column IV, plus the following for each dependent in excess of two: |
| Full-time | $304 | $355 | $404 | $33 |
| Three-quarter-time | 228 | 266 | 303 | 18 |
| Half-time | 152 | 178 | 202 | 12"; and |

(4) Section 1692(b) is amended by striking out "$76" and "$911" and inserting in lieu thereof "$84" and "$1,008", respectively.

### RATES OF EDUCATIONAL ASSISTANCE FOR SURVIVORS AND DEPENDENTS

Sec. 203. Chapter 35 is amended—

(1) by striking out "$276" in section 1732(b) and inserting in lieu thereof "$304"; and

(2) by striking out "$342", "$108", "$108", and "$11.44" in section 1742(a) and inserting in lieu thereof "$376", "$119", "$119", and "$12.58", respectively.

### RATES OF TRAINING ALLOWANCES FOR APPRENTICESHIP OR OTHER ON-JOB TRAINING

Sec. 204. Chapter 36 is amended as follows:

(1) Section 1786(a)(2) is amended by striking out "$342" and inserting in lieu thereof "$376".

(2) The table contained in section 1787(b)(1) is amended to read as follows:

| "Column I | Column II | Column III | Column IV | Column V |
|---|---|---|---|---|
| Periods of training | No dependents | One dependent | Two dependents | More than two dependents |
| First 6 months | $274 | $307 | $336 | $14 |
| Second 6 months | 206 | 239 | 267 | 14 |
| Third 6 months | 136 | 171 | 198 | 14 |
| Fourth and any succeeding 6-month periods | 68 | 101 | 131 | 14"; and |

(3) Section 1798(b)(3) is amended by striking out "$342" and inserting in lieu thereof "[illegible]".

### EFFECTIVE DATE

SEC. 205. The amendments made by this part shall take effect as of October 1, 1984.

## PART B—VETERANS' EMPLOYMENT PROGRAMS

### EXTENSION AND REVISION OF VETERANS READJUSTMENT APPOINTMENT PROGRAM

SEC. 211. (a) Subsection (a) of section 2014 is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end the following new paragraph:

"(2) For the purposes of this section, the term 'agency' means a department, agency, or instrumentality in the executive branch.".

(b) Subsection (b) of such section is amended—

(1) in paragraph (1)—

(A) by striking out "GS-7" in clause (A) and inserting in lieu thereof "GS-9";

(B) by striking out "and" at the end of clause (B);

(C) by striking out the period at the of clause (C) and inserting in lieu thereof a semicolon and "and"; and

(D) by adding at the end the following new clause:

"(D) a veteran given an appointment under the authority of this subsection whose employment under the appointment is terminated within one year after the date of such appointment shall have the same right to appeal that termination to the Merit Systems Protection Board as a career or career-conditional employee has during the first year of employment."; and

(2) in paragraph (2), by striking out "September 30, 1984" and inserting in lieu thereof "September 30, 1986".

(c) Subsection (c) of such section is amended—

(1) by striking out "department, agency, and instrumentality in the executive branch" and inserting in lieu thereof "agency"; and

(2) by striking out "such department, agency, or instrumentality" and inserting in lieu thereof "such agency".

(d) Subsections (d) and (e) of such section are amended to read as follows:

"(d) The Office of Presonnel Management shall be responsible for the review and evaluation of the implementation of this section and the activities of each agency to carry out the purpose and provisions of this section. The Office shall periodically obtain (on at least an annual basis) information on the implementation of this section by each agency and on the activities of each agency to carry out the purpose and provisions of this section. The information obtained shall include specification of the use and extent of appointments made by each agency under subsection (b) of this section and the results of the plans required under subsection (c) of this section.

"(e)(1) The Office of Personnel Management shall submit to the Congress annually a report on activities carried out under this section. Each such report shall include the following information with respect to each agency:

"(A) The number of appointments made under subsection (b) of this section since the last such report and the grade levels in which such appointments were made.

"(B) The number of individuals receiving appointments under such subsection whose appointments were converted to career or career conditional appointments, or whose employment under such an appointment has terminated, since the last such report, together with a complete listing of categories of causes of appointment terminations and the number of such individuals whose employment has terminated falling into each such category.

"(C) The number of such terminations since the last such report that were initiated by the agency involved and the number of such terminations since the last such report that were initiated by the individual involved.

"(D) A description of the education and training programs in which individuals appointed under such subsection are participating at the time of such report.

"(2) Information shown for an agency under clauses (A) through (D) of paragraph (1) of this subsection—

"(A) shall be shown for all veterans; and

"(B) shall be shown separately (i) for veterans of the Vietnam era who are entitled to disability compensation under the laws administered by the Veterans' Administration or whose discharge or release from active duty was for a disability incurred or aggravated in line of duty, and (ii) for other veterans.".

### EXTENSION OF EMERGENCY VETERANS' JOB TRAINING ACT PROGRAM

SEC. 212. (a) Section 5(b)(3)(A) of the Emergency Veterans' Job Training Act of 1983 (Public Law 98-77; 97 Stat. 445) is amended by striking out "60 days" and inserting in lieu thereof "90 days".

(b) Section 16 of such Act is amended by striking out "September 30, 1986" and inserting in lieu thereof "September 30, 1987".

(c) The text of section 17 of such Act is amended to read as follows:

"SEC. 17. Assistance may not be paid to an employer under this Act—

"(1) on behalf of a veteran who initially applies for a program of job training under this Act after February 28, 1985; or

"(2) for any such program which begins after September 1, 1985.".

## TITLE III—OTHER BENEFIT RATE INCREASES AND PROGRAM IMPROVEMENTS

### VOCATIONAL TRAINING AND HEALTH CARE ELIGIBILITY PROTECTION FOR PENSION RECIPIENTS

SEC. 301. (a)(1) Subchapter II of chapter 15 is amended by adding at the end the following new sections:

**"§ 524. Temporary program of vocational training for certain new pension recipients**

"(a)(1) Subject to paragraph (3) of this subsection, in the case of a veteran under the age of 50 who is awarded pension during the program period, the Administrator shall determine whether the achievement of a vocational goal by the veteran is reasonably feasible. Any such determination shall be made only after evaluation of the veteran's potential for rehabilitation, and any such evaluation shall include a personal interview of the veteran by a Veterans' Administration employee who is trained in vocational counseling. If the veteran fails, for reasons other than those beyond the veteran's control, to participate in the evaluation in the manner required by the Administrator in order to make such determination, the Administrator shall suspend the veteran's pension for the duration of such failure.

"(2) Subject to paragraph (3) of this subsection, if a veteran who is 50 years of age or older and who is awarded pension during the program period applies for vocational training under this section and the Administrator makes a preliminary finding on the basis of information in the application that, with the assistance of a vocational training program under subsection (d) of this section, the veteran has a good potential for achieving employment, the Administrator shall provide the veteran with an evaluation in order to determine whether the achievement of a vocational goal by the veteran is reasonably feasible. Any such evaluation shall include a personal interview by a Veterans' Administration employee trained in vocational counseling.

"(3) Not more than 2,500 veterans may be given evaluations under this subsection during any 12-month period beginning on February 1 of a year.

"(4) For the purposes of this section, the term 'program period' means the period beginning on February 1, 1985, and ending on January 31, 1989.

"(b)(1) If the Administrator, based upon an evaluation under subsection (a) of this section, determines that the achievement of a vocational goal by a veteran is reasonably feasible, the veteran shall be offered and may elect to pursue a vocational training program under this subsection. If the veteran elects to pursue such a program, the program shall be designed in consultation with the veteran in order to meet the veteran's individual needs and shall be set forth in an individualized written plan of vocational rehabilitation of the kind described in section 1507 of this title.

"(2)(A) Subject to subparagraph (B) of this paragraph, a vocational training program under this subsection shall consist of vocationally oriented services and assistance of the kind provided under chapter 31 of this title and such other services and assistance of the kind provided under that chapter as are necessary to enable the veteran to prepare for and participate in vocational training or employment.

"(B) A vocational training program under this subsection—

"(i) may not exceed 24 months unless, based on a determination by the Administrator that an extension is necessary in order for the veteran to achieve a vocational goal identified (before the end of the first 24 months of such program) in the written plan formulated for the veteran, the Administrator grants an extension for a period not to exceed 24 months;

"(ii) may not include the provision of any loan or subsistence allowance or any automobile adaptive equipment of the kind provided under chapter 39 of this title; and

"(iii) may include a program of education at an institution of higher learning (as defined in sections 1652(b) and 1652(f), respectively, of this title) only in a case in which the Administrator determines that the program involved is predominantly vocational in content.

"(3) When a veteran completes a vocational training program under this subsection, the Administrator may provide the veteran with counseling of the kind described in sections 1504(a)(2) of this title, placement and postplacement services of the kind described in section 1504(a)(5) of this title, and training of the kind described in section 1504(a)(6) of this title during a period not to exceed 18 months beginning on the date of such completion.

"(4) A veteran may not begin pursuit of a vocational training program under this subsection after the later of (A) January 31, 1989, or (B) the end of a reasonable period of time, as determined by the Administrator, following either the evaluation of the veteran under subsection (a)(1) of this section or the award of pension to the veteran as described in subsection (a)(2) of this section. Any determination by the Administrator of such a reasonable period of time shall be made pursuant to regulations which the Administrator shall prescribe.

"(c) Notwithstanding subsection (c) of section 525 of this title, a veteran who pursues a vocational training program under subsection (b) of this section shall have the benefit of the provisions of subsection (a) of section 525 of this title beginning at such time as the veteran's entitlement to pension is terminated by reason of income from work or training (as defined in subsection (b) of that section).

"(d) Payments by the Administrator for education, training, and other services and assistance under subsection (b) of this section (other than the services of Veterans' Administration employees) shall be made from the Veterans' Administration appropriations account from which payments for pension are made.

"§ 525. Temporary protection of health-care eligibility

"(a) In the case of a veteran whose entitlement to pension under section 521 of this title is terminated during the program period by reason of income from work or training, the veteran shall retain for a period of three years beginning on the date of such termination all eligibility for care and services under such chapter that the veteran would have had if the veteran's entitlement to pension had not been terminated. Care and services for which such a veteran retains eligibility include, when applicable, drugs and medicines under section 612(h) of this title and special priority with respect to such care and services under section 612(i)(5) of this title.

"(b) For the purposes of this section:

"(1) The term 'terminated by reason of income from work or training' means terminated as a result of the veteran's receipt of earnings from activity performed for remuneration or gain, but only if the veteran's annual income from sources other than such earnings would, taken alone, not result in the termination of the veteran's pension.

"(2) The term 'program period' means the period beginning on February 1, 1985, and ending on January 31, 1989.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 523 the following new items:

"524. Temporary vocational training for certain new pension recipients.

"525. Temporary protection of health-care eligibility.".

(b) Not later than April 15, 1988, the Administrator of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the results of the implementation of sections 524 and 525 of title 38, United States Code (as added by subsection (a)(1)), during the period beginning on February 1, 1985, and ending on January 31, 1988. The report shall include—

(1) information regarding—

(A) the number of veterans who during the period covered by the report were provided with evaluations under paragraphs (1) and (2) of subsection (a) of such section 524,

(B) the number of such veterans for whom a vocational goal was determined to be feasible,

(C) the number of such veterans who elected, and who did not elect, to pursue a vocational training program under subsection (b) of that section,

(D) the extent to which those veterans who elected to pursue such a program completed the program,

(E) the subsequent work and pension-eligibility experience of the veterans who were provided with such evaluations, shown according to their participation in and completion of vocational training programs, and

(F) the number of veterans who received the benefit of such section 525;

(2) a tabulation of the reasons given by such veterans for not electing to pursue such a program by those for whom a vocational goal was determined to be reasonably feasible but who did not elect to pursue such program; and

(3) the Administrator's assessment of the value (including the cost-effectiveness) and effect of such implementation and any recommendations of the Administrator for administrative and legislative action based on such results and assessment.

### REPORT ON MEDICAL EXAMINATIONS OF CERTAIN PENSION RECIPIENTS

Sec. 302. (a) Not later than 28 months after the date of the enactment of this Act, the Administrator of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing a statistical tabulation of the results of the medical examinations conducted under subsection (b)(1)(A) and the determinations made under subsection (b)(1)(B).

(b)(1) The Administrator—

(A) shall provide for the selection of a sampling of the class of pension recipients described in paragraph (3) to undergo, and each recipient in such sampling shall undergo, a medical examination of the kind provided a veteran under 65 years of age who is applying for pension under section 521 of title 38, United States Code; and

(B) shall determine what, if any, percentage rating would be applicable to the recipient under the schedule of ratings adopted pursuant to section 355 of such title.

(2) The sampling of pension recipients selected under paragraph (1)(A) shall be selected in a manner that is statistically valid for the purpose of estimating the disability ratings of all recipients in the class described in paragraph (3).

(3) The class of pension recipients referred to in paragraphs (1) and (2) are those individuals who, during the two-year period beginning on the date of the enactment of this Act, are awarded pension under section 521 of title 38, United States Code, by reason of being considered, under section 502(a) of such title, to be permanently and totally disabled by reason of being 65 years of age or older or becoming unemployable after age 65.

### PARTICIPATION IN THERAPEUTIC OR REHABILITATIVE ACTIVITIES

Sec. 303. Section 618 is amended by adding at the end the following new subsection:

"(f) Neither a veteran's participation in an activity carried out under this section nor a veteran's receipt of remuneration as a result of such participation may be considered as a basis for the denial or discontinuance of a rating of total disability for purposes of compensation or pension based on the veteran's inability to secure or follow a substantially gainful occupation as a result of disability.".

### SPECIALLY ADAPTED HOUSING ASSISTANCE

Sec. 304. (a) Section 802 is amended—

(1) in subsection (a), by striking out "$32,500" and inserting in lieu thereof "$35,500"; and

(2) in subsection (b), by striking out "$5,000" and inserting in lieu thereof "$6,000".

(b) The amendments made by subsection (a) shall take effect on January 1, 1985.

### AUTOMOBILE AND ADAPTIVE EQUIPMENT ASSISTANCE

Sec. 305. (a) Section 1902(a) is amended by striking out "$4,400" and inserting in lieu thereof "$5,000".

(b) Subsection (c) of section 1903 is amended to read as follows:

"(c)(1) An eligible person shall not be entitled to adaptive equipment under this chapter for more than two automobiles or other conveyances at any one time or (except as provided in paragraph (2) of this subsection) during any four-year period.

"(2) In a case in which the four-year limitation in paragraph (1) of this subsection precludes an eligible person from being entitled to adaptive equipment under this chapter, if the Administrator determines that, due to circumstances beyond the control of such person, one of the automobiles or other conveyances for which adaptive equipment was provided to such person during the applicable four-year period is no longer available for the use of such person, the Administrator may provide adaptive equipment to such person for an additional automobile or other conveyance during such period. Provision of adaptive equipment under this paragraph is within the discretion of the Administrator. Any action to provide adaptive equipment under this paragraph shall be made pursuant to regulations which the Administrator shall prescribe.".

(c)(1) The amendments made by this section shall take effect on January 1, 1985.

(2) In the case of a person who during the four-year period ending on December 31, 1984, was provided adaptive equipment under chapter 39 of title 38, United States Code, for an automobile or other conveyance and who has such automobile or other conveyance available for use on the date of the enactment of this Act, the first four-year period applicable to such person under subsection (c) of section 1903 of such title (as amended by subsection (a)) shall begin on the most recent date before January 1, 1985, on which such person was provided such equipment.

## TITLE IV—MISCELLANEOUS PROVISIONS

### REPEAL OF ANNUAL REPORTING REQUIREMENT

Sec. 401. Section 1796 is amended by striking out subsection (d).

### SUSPENSION OF COMPENSATION AND PENSION PAYMENTS TO CERTAIN INSTITUTIONALIZED VETERANS; WAIVER

Sec. 402. (a) Section 3203(b)(1) is amended—

(1) by designating the first and second sentences as subparagraphs (A) and (B), respectively;

(2) in subparagraph (A), as so designated—

(A) by striking out the comma after "treatment" in the first sentence and inserting in lieu thereof "or";

(B) by striking out "by reason of mental illness"; and

(C) by inserting "(excluding the value of the veteran's home unless there is no reasonable likelihood that the veteran will again reside in such home)," after "the veteran's estate"; and

(3) by adding at the end the following new subparagraph:

"(C) The Administrator may waive the discontinuance under this paragraph of payments to a veteran with respect to not more than 60 days of care of the veteran during any calendar year if the Administrator determines that the waiver is necessary in order to avoid a hardship for the veteran. Any such waiver shall be made pursuant to regulations which the Administrator shall prescribe.".

(b) The Administrator shall prescribe regulations under subparagraph (C) of section 3203(b)(1) of title 38, United States Code (as added by subsection (a)), not later than 60 days after the date of the enactment of this Act.

In lieu of matter inserted by the amendment of the Senate to the title of the bill, insert: "An Act to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans and of dependency and indemnity compensation for surviving spouses and children of veterans, to increase the rates of subsistence and educational assistance allowances for veterans pursuing vocational rehabilitation programs under chapter 31 of such title and for veterans and eligible persons pursuing programs of education or training under chapter 34, 35, or 36 of such title, to increase the opportunities for vocational rehabilitation of certain veterans receiving disability compensation, and to provide vocational training opportunities for certain veterans receiving pension; and for other purposes.".

**Mr. SIMPSON.** Mr. President, it gives me great pleasure to speak today, in strong support of the final passage of H.R. 5688, the proposed "Veterans' Benefits Improvement Act of 1984." This bill was passed by the Senate by unanimous consent along with a title amendment and two amendments to the committee bill on October 2, 1984. S. 2736 was passed by the Senate as an amendment in the nature of a substitute to the House of Representatives companion measure, H.R. 5688, the proposed "Veterans' Compensation Amendments for Fiscal Year 1985" which was passed by the House on June 18, 1984. The pending measure, embodies a compromise agreement between the Veterans' Affairs Committees of the Senate and the House. I believe we have reached a reasonable compromise agreement through the full cooperation of both committees to insure that we pass a fair, equitable, and comprehensive compensation bill to benefit our Nation's veterans.

The most important provision of the compromise bill is the 3.2-percent across-the-board cost-of-living increase in the rates of disability compensation and dependency and indemnity compensation, effective Demember 1, 1984. This rate increase is based on the most recent estimate by the Congressional Budget Office of the projected Consumer Price Index as of December 1, 1984. I am pleased that a change in economic conditions has resulted in a significantly lower projected inflation rate that had been estimated previously. Although the compromise provision does not include the alternative rate adjustment provision included in the original Senate bill, it reflects the intent behind that provision, which would have required the Administrator of Veterans' Affairs to compute and pay alternative rate increases based on the actual Consumer Price Index as of December 1, 1984. I strongly endorse the compromise provision since it reflects the truest estimate available at this time of the inflation rate as of December 1. Thus, the compromise COLA increase reflects the intent of the original Senate provision, that the COLA increase keep pace with the actual rate of inflation.

Mr. President, the compromise bill would also provide for other reasonable rate increases, including the provision contained in the Senate bill, S. 2736, which would provide a 10-percent rate increase, effective October 1, 1984, for all VA education programs. Also, the maximum amount of the one-time automobile assistance allowance paid to certain severely service-connected disabled veterans would be increased to $5,000, effective January 1, 1985, and the maximum amount of the specially service-connected disabled veterans and the adapted housing assistance allowance for veterans with service-connected total blindness or the loss or loss of use of both upper extremities would be increased to $35,500 and $6,000, respectively effective January 1, 1985.

The compromise agreement would provide for a 2-year extension of the Veterans' Readjustment Appointment [VRA] program, an increase in the maximum grade level at which appointments may be made to GS-9, and limited appeal rights for certain appointees under the program. The compromise would also enhance the Emergency Veterans' Job Training Act program by extending the eligibility periods for certificates and the availability of funds, as well as the time in which to apply and to commence training under the programs.

Through extensive negotiations, the committees have agreed to several other important provisions contained in the compromise bill which are designed to provide employment incentives for certain severely disabled and certain disadvantaged veterans who are unemployed, to assist them as much as possible to rejoin the work force and to become productive members of society once again, despite their disabilities. The compromise bill incorporates many of the facets of the two trial work pilot projects which were originally contained in the Senate-passed bill plus an additional pilot vocational training program for pensioners derived from a provision in the original House bill. These pilot programs would be in effect for 4 years and would require the Administrator to report back to the Congress after the end of the first 3 years on the results of these employment incentive programs. This information will help to enable the Congress to determine whether it is feasible for these categories of disabled veterans to regain and maintain substantial gainful employment if they are provided sufficient vocational training and rehabilitation assistance, health benefits and a degree of financial security while making the transition back into the work force. Mr. President, my floor statement on October 2, 1984, the date of Senate passage of S. 2736 contains a full discussion of the two trial work pilot programs which are substantially the same as the provisions contained in the compromise bill. I had some significant objections to the original House-passed version of the vocational training provisions for pension recipients; however, the modifications which have been incorporated in the compromise have alleviated my concerns and I trust will provide a very unique opportunity to study the possibilities of training or retraining these severely disabled veterans so that they might live more useful and productive lives, especially when coupled with the trial work period. The benefits of accomplishing this goal would be varied and most worthwhile to the veteran, his or her family, and to the country.

The compromise would place this vocational training program in chapter 15, title 38, of the United States Code rather than in chapter 31 as in the House-passed bill. It was important to me however to separate the two programs by placing this pilot effort in chapter 15 with other pension matters. This new program for nonservice-connected veterans is intended to be more limited and focused but similar to those contained under the chapter 31 program of vocational rehabilitation and counseling for service-connected veterans. I also expect that the program will be administered under the auspices of the existing vocational rehabilitation program.

Another important difference of the compromise from the House-passed measure is the intent to focus specifically on job placement and to provide work-place training and work adjustment training and counseling necessary to provide seriously disabled veterans with all the ammunition they need to succeed in a new field. The intent of this training is not to provide higher education and nonfocused learning experiences, but to provide immediate placement when possible and training in the work place or, if not possible, vocational training that would lead to placement of such veterans in jobs that would be appropriate considering their disabilities. The counseling services provided under the compromise are not intended to be merely analytical or therapeutic in nature but to relate directly to job-adjustment concerns that a severely disabled veteran might encounter.

I anticipate that this program would provide a useful opportunity to see how many new pensioners, for whom it is determined that the pursuit of a vocational goal would be reasonably feasible, would take that opportunity to pursue a training program and obtain substantial gainful employment. The bill limits the number of evaluations in any year of the program to 2,500. I intend to monitor that limitation very closely in order to ensure that this number would not result in a significant number of veterans being excluded from the possibility of training which might lead to employment during the life of this project.

I strongly support the passage of these pilot programs which are not only designed to benefit those veterans who will achieve the personal satisfaction of demonstrating their ability to maintain gainful employment, but in the process will also benefit the VA compensation and pension program as these veterans return to work and will no longer be totally dependent on their VA payments.

Finally, I wish to note a technical change made to section 335 of title 38, which would reduce the percentage of peacetime service-connected disability required for additional compensation for dependents, to conform with VA practice which is based on a provision found in section 334. I agree to this technical amendment. However, I wish to emphasize that, in my view, this change does not indicate my support, or lack of support, for the current practice of providing the same level of benefits to peacetime and wartime veterans.

Mr. President, this bill as amended once again has provided an excellent opportunity for us to join in bipartisan support of a fair and reasonable compromise which incorporates many important provisions of both the Senate and the House versions of the bill.

Mr. President, in conclusion, I wish to express my sincere appreciation to Senator CRANSTON, the distinguished ranking minority member of the committee for his dedicated assistance throughout the entire process of the development of this bill; each of my colleagues who serve as committee members; G.V. "SONNY" MONTGOMERY, the effective and distinguished Chairman of the House Veterans' Affairs Committee, as well as JOHN PAUL HAMMERSCHMIDT, the respected ranking minority member of the House committee.

I also wish to thank the committee staff members for their superb efforts on this bill, particularly my most dependable and extraordinary chief counsel and staff director, Anthony Principi, his deputy and legislative director, Julie Susman, Kathleen McTighe, Jody Sanders, Becky Hucks, Kay Eckhardt, James McRae, and Brenda Meyer. I also wish to express my appreciation for the outstanding work of the members of the minority staff, particularly, Johnathan Steinberg, chief counsel and staff director; Ed Scott, Babette Polzer, and Ingrid Post. I also thank the staff of the House Veterans' Affairs Committee, especially Mack Fleming, the fine chief counsel and staff director; Arnold Moon and Charles Peckarsky, and Rufus Wilson, the most capable minority chief counsel, who were instrumental in achieving this equitable compromise.

Mr. President, I am most pleased to have the opportunity to urge that my colleagues in the Senate ratify this measure on behalf of the entire committee, all Members of which are cosponsors of this measure. I urge the Senate's favorable consideration of this bill. I ask unanimous consent that the joint explanatory statement be printed in the RECORD in lieu of a conference report.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

## EXPLANATORY STATEMENT OF HOUSE BILL (H.R. 5688), SENATE AMENDMENT (S. 2736), AND COMPROMISE AGREEMENT ON H.R. 5688, THE VETERANS' BENEFITS IMPROVEMENT ACT OF 1984

This document explains the provisions of H.R. 5688 as passed by the House of Representatives (hereinafter referred to as the "House bill"), the provisions of the Senate amendment in the nature of a substitute to the House bill as passed by the Senate (hereinafter referred to as the "Senate amendment"), and the provisions of a compromise on H.R. 5688 as agreed to by the Veterans' Affairs Committees of the House and Senate. The differences between the House bill, the Senate amendment, and the compromise agreement are noted below, except for clerical corrections, conforming changes made necessary by agreements reached between the Committees, and minor drafting, technical, and clarifying changes.

## TITLE I—DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION

### PART A—RATE INCREASES

#### DISABILITY COMPENSATION

Both the House bill (sections 101 through 103) and the Senate amendment (sections 101 through 103) would amend chapter 11 of title 38, United States Code, relating to compensation for service-connected disability or death, to increase, effective December 1, 1984, the basic rates of service-connected disability compensation for veterans, the rates payable for certain severe disabilities, the dependents' allowances payable to veterans rated 30-percent or more disabled, and the annual clothing allowance for certain disabled veterans. The House bill would increase such rates and allowances by 4.3 percent and the Senate amendment (subject to the alternative-rate-increase provision set forth in section 108 of the Senate amendment discussed below), by 4.7 percent, with increases rounded to the nearest dollar.

The compromise agreement (sections 101 through 103) would amend chapter 11 to increase, effective December 1, 1984, such rates and allowances by 3.2 percent, with increases rounded to the nearest dollar.

The Committees note that this increase is in accordance with the Congressional Budget Office's most recent (August 1984) economic assumption relating to the anticipated increase in the Consumer Price Index from the third quarter of fiscal year 1985 through the third quarter of fiscal year 1984 and the assumptions underlying the First Concurrent Budget Resolution for FY 1985, as approved by the Congress on October 1, 1984.

#### DEPENDENCY AND INDEMNITY COMPENSATION

Both and House bill (sections 104 and 105) and the Senate amendment (sections 104 through 106) would amend chapter 13 of title 38, relating to dependency and indemnity compensation for service-connected deaths, to increase, effective December 1, 1984, rates of dependency and indemnity compensation (DIC) payable to the surviving spouses and children of veterans whose deaths were service connected. The House bill would increase such rates by 4.3 percent and the Senate amendment (subject to the alternative-rate-increase provision set forth in section 108 of the Senate amendment, discussed below), by 4.7 percent, with increase rounded to the nearest dollar.

The compromise agreement (sections 104 through 106) would amend chapter 13 to increase, effective December 1, 1984, such rates by 3.2 percent, with increases rounded to the nearest dollar

The justification for this percentage increase is discussed above in connection with the increase provided in disability compensation.

#### ALTERNATIVE RATE INCREASES

The Senate amendment (section 108), but not the House bill, would provide that, if the December 1984 increase under the Social Security Act is not 4.7 percent, the Administrator of Veterans' Affairs would compute and pay effective December 1, 1984, in lieu of the 4.7-percent rate increases, alternative increases at the same percentage as rates increased under the Social Security Act.

The compromise agreement does not contain this provision.

### PART B—COMPENSATION PROGRAM AMENDMENTS

The House bill (section 111(a)), but not the Senate amendment would amend section 301(3) of title 38, relating to the definition of "chronic diseases" for purposes of service-connected disability compensation, to include in the definition of that term lupus erythematosus, systemic (SLE).

The compromise agreement does not contain this provision.

The Committees note that the absence of the provision in the compromise agreement in no way indicates any intent that the VA alter the manner in which SLE is currently evaluated and adjudicated for purposes of compensation.

#### MANIFESTATION OF DISEASES

The House bill (section 111(b)), but not the Senate amendment, would amend section 312 of title 38, relating to presumptions with respect to certain diseases and disabilities, to remove the references "to a degree of 10 percentum or more" and "or aggravated by". The removal of the phrase "to a degree of 10 percentum or more" would remove the requirement that the diseases be manifested to a specific minimum measurable degree of disability during the prescribed post-service period and would require only that the disease be shown to exist during those periods. A technical change would eliminate the phrase "or aggravated by" from section 312.

The compromise agreement does not contain these provisions.

#### TRIAL WORK PERIOD AND VOCATIONAL REHABILITATION PILOT PROJECT

The Senate amendment (section 110), but not the House bill, would further amend chapter 11 of title 38 to establish a 3-year trial work pilot program (which the Administrator could extend to 4 years) for veterans whose service-connected disabilities are rated less than totally disabling but who are assigned service-connected total disability ratings by reason of individual determinations of unemployability ("IU ratings") during the program. Under the pilot program, a veteran with an IU rating would have the opportunity to participate in one 12-month trial work period and would be eligible for certain counseling and placement services. Also, if the veteran were to work after completion of a trial work period and lose the IU rating, the rating would be automatically restored—subject to immediate review—if, in any month during the 12-month period following the veteran's trial work period, the veteran's employment earnings fell below $300. In addition, all veterans with IU ratings would be provided with eligibility for certain counseling, placement, and post-placement services under chapter 31 regardless of whether they are pursuing a chapter 31 program. Not later than 39 months after the pilot program went into effect, the Administrator would be required to report on the results of the first 3 years' experience under the pilot program.

In a free-standing provision of law, the Administrator would be required to provide all IU-rated veterans with information regarding the trial work period and chapter 31.

The Senate amendment would further amend chapter 11 of title 38 to provide that each veteran receiving an IU rating after the fourth full month following the date of enactment undergo a vocational rehabilitation evaluation under chapter 31 of title 38 if eligible therefor, and pursue a VA vocational rehabilitation program if one is developed. In the case of a veteran with such a new IU rating who failed to comply with the requirement to participate in the evaluation or the rehabilitation program, the Administrator would be required to provide for a review of the veteran's eligibility for that rating and for the veteran's noncompliance to be considered as part of the review.

The compromise agreement (section 111) contains provisions, derived from these provisions, to add a new section 363, "Temporary program for trial work periods and vocational rehabilitation for certain veterans with total disability ratings", to title 38, to establish a 4-year program—from February 1, 1985, through January 31, 1989—providing certain protection for the IU ratings of veterans who wish to try to return to work. Under the compromise agreement, a veteran with an IU rating who regains employment during that 4-year period would not, as a result of doing so, be determined to have regained the ability to follow "a substantially gainful occupation" (the standard used in VA regulations, 38 C.F.R. § 4.16, for deciding whether the veteran is or is not entitled to an IU rating) unless the veteran has maintained that employment for at least 12 consecutive months.

The compromise agreement contains the provisions making counseling, placement, and post-placement services available to all IU-rated veterans and notification provisions requiring that IU-rated veterans be advised about the provisions of the compromise agreement affecting them and about the chapter 31 vocational rehabilitation program.

Regarding new recipients of IU ratings undergoing vocational rehabilitation evaluations, the compromise agreement would establish a program applicable to veterans who receive such ratings during the 4-year period beginning February 1, 1985, and ending January 31, 1989. Under this program, after the Administrator provides the veteran with notice of the IU-rating award and the requirement that the veteran undergo a vocational rehabilitation evaluation, the Administrator, in order to determine whether achievement of a vocational goal is reasonably feasible, would be required to arrange promptly for a chapter 31 evaluation (to be conducted by a VA employee trained in vocational counseling) and notify the veteran of the schedule for it. Failure of the veteran, for reasons other than those beyond the veteran's control, to participate in evaluation would result in suspension of the veteran's IU rating for the duration of the failure. If a chapter 31 vocational rehabilitation program is developed for the veteran and the veteran fails to pursue it, the Administrator would notify the veteran that, if for reasons other than those beyond the veteran's control, the veteran were to fail to begin or resume pursuit of the program within 60 days (or within any longer period the Administrator determines is the shortest period within which it would be reasonably feasible for the veteran to begin or resume pursuit), the Administrator would provide for the veteran's evaluation results to be considered in the next scheduled review of the veteran's IU-rating eligibility. If the veteran failed to begin or resume pursuit, the Administrator would be required to provide for the results to be so considered. These provisions would not apply to veterans for whom the Administrator determines that participation in evaluation or achievement of a vocational goal is not feasible.

Not later than April 15, 1988, the Administrator would be required to submit to the Committees a report on the first 3 years' experience under this new section of title 38 with particular reference to the program's cost-effectiveness and the extent to which the new provisions contribute to veterans becoming employable and employed.

The Committees anticipate that the Administrator, in order to meet the April 15 reporting deadline, will begin preparation of the report well in advance of the end of the first three years of the program.

The Committees also note that, under current VA procedures, set forth in the Department of Veterans' Benefits Adjudication Procedure Manual (M 21-1, paragraph 55.08), veterans with IU ratings are required to provide annually information regarding their employment. The Committees approve of this procedure and note that the compromise agreement provisions relating to veterans with these ratings are designed to fit in with this procedure. Thus, if the Administrator ever intends to eliminate or modify this procedure, the Committee direct the Administrator to provide them with reasonable notice of the intention to do so.

#### TECHNICAL AMENDMENT

The House bill (section 112), but not the Senate amendment, would amend section 335 of title 38, relating to dependents allowances for veterans receiving compensation as a result of a disability incurred or aggravated during peacetime service, to make a technical, conforming change to clarify the VA's authority to continue to pay such allowances to such veterans in the same manner that they are paid to veterans with disabilities incurred or aggravated during wartime service.

The compromise agreement (section 112) contains this provision.

## TITLE II—VETERANS' REHABILITATION, EDUCATION, AND EMPLOYMENT PROGRAMS

### PART A—RATE INCREASES

The Senate amendment (sections 201 through 205) and sections 101 through 103 of H.R. 5398 as passed by the House on August 6, 1984 (hereinafter referred to as H.R. 5398), would amend chapters 31, 34, 35, and 36 of title 38, United States Code, relating to certain rehabilitation and education programs, to increase rates of all VA education programs, including rehabilitation subsistence allowances for veterans with service-connected disabilities; educational assistance allowances and special supplementary (tutorial) assistance for eligible veterans; training assistance allowances for apprenticeship and other on-job training; and educational assistance and special training allowances for eligible survivors and dependents. The House bill would increase such rates and allowances by 15 percent, effective January 1, 1985, and the Senate amendment by 10 percent, effective October 1, 1984.

The compromise agreement contains the Senate provision.

The Senate amendment, but not the House bill nor H.R. 5398, would amend section 1784(c) of title 38, relating to reporting fees paid to educational institutions to defray the costs to them of reports and certifications required by the VA, to increase the amounts of such fees from $7 to $9 annually for each eligible veteran or eligible person enrolled at an educational institution under chapter 34 or 35 or from $11 to $13 annually for each enrollee receiving advance payment of educational assistance allowances.

The compromise agreement does not contain this provision.

H.R. 5398 (section 101(c)(1)), but not the Senate amendment, would amend section 1774(b) of title 38, relating to reimbursement of expenses to State approving agencies, to increase the allowances for administrative expenses by 15 percent, effective January 1, 1985.

The compromise agreement does not contain this provision.

### PART B—VETERANS' EMPLOYMENT PROGRAMS

#### EXTENSION AND REVISION OF VETERANS' READJUSTMENT APPOINTMENTS

Both the Senate amendment (section 301) and H.R. 5398 (section 201) would amend section 2014(b) of title 38, relating to the authority for veterans readjustment appointments, to extend the authority. H.R. 5398 would extend the authority for three years, until September 30, 1987, and the Senate amendment for one year, until September 30, 1985. Further, H.R. 5398, but not the Senate amendment, would raise the maximum grade level at which appointments may be made from GS-7 to GS-11 and remove the requirement that non-service-connected disabled Vietnam-era veterans be educationally disadvantaged in order to be eligible for a veterans readjustment appointment. Finally, both the Senate amendment and H.R. 5398 would provide limited appeal rights during the first year of an appointment and provide for annual, instead of semi-annual, reports on the program. H.R. 5398 would, in addition, make technical changes in the reporting requirement in order to reflect more accurately how the system of obtaining the information for the report operates in practice.

The compromise agreement (section 211) would extend the veterans readjustment appointment authority for two years, until September 30, 1986; raise to GS-9 the maximum grade level at which appointments may be made; provide limited appeal rights; and require an annual, rather than semiannual, report (incorporating the technical changes proposed in H.R. 5398).

#### EXTENSION OF EMERGENCY VETERANS' JOB TRAINING ACT

Both the Senate amendment (section 302) and H.R. 5398 (section 301) would amend the Emergency Veterans' Job Training Act of 1983, Public Law 98-77, to extend by 6 months, until September 1, 1985, the date by which veterans previously certified must commence a training program under that Act and to extend to 60 days the lifetime of certifications of eligibility furnished to veterans under the Act. In addition, H.R. 5398, but not the Senate amendment, would extend by 6 months, until May 29, 1985, the date by which veterans may apply to participate in the program. Finally, the Senate amendment, but not H.R. 5398, would extend the availability of appropriated funds under the program for one year.

The compromise agreement (section 212) incorporates both the House and Senate provisions except that the application date deadline is extended for three months, through February 28, 1985.

#### OTHER EDUCATION PROVISIONS

The Senate amendment (section 210), but neither the House bill nor H.R. 5398, would amend certain provisions of chapters 31, 34, and 35 of title 38, relating to time limits for completion of programs of education or training, to toll the eligibility period for GI Bill and certain other educational benefits and vocational rehabilitation programs for certain veterans and eligible persons who have been prevented from participating in such programs because of alcohol or drug dependence or abuse. In the case of a veteran with a general discharge, an individual determination that the discharge was under conditions other than dishonorable would be required.

The compromise agreement does not contain this provision.

The Senate amendment (section 211), but neither the House bill nor H.R. 5398, would amend section 1796 of title 38, relating to limitations on certain advertising, sales, and enrollment practices, to repeal a Veterans' Administration reporting requirement pertaining to deceptive advertising practices by educational institutions.

The compromise agreement (section 401) contains this provision.

The Committees expect the Administrator to continue to monitor closely advertisement practices by educational institutions enrolling GI Bill trainees and to keep the Committees fully informed about any significant developments relating to deceptive advertising practices by such institutions.

The Senate amendment (section 213), but neither the House bill nor H.R. 5398, would require the Administrator to consult with the VA's educational advisory committee (establishment pursuant to section 1792 of title 38) prior to changing any requirements for educational institutions to report enrollments of GI Bill trainees.

The compromise agreement does not contain this provision.

The Committees note that they do not believe that a statutory requirement is needed to bring about the consultation sought by the Senate amendment, since this is the purpose for which Congress established the advisory committee.

## TITLE III—OTHER BENEFIT RATE INCREASES AND PROGRAM IMPROVEMENTS

#### VOCATIONAL TRAINING AND HEALTH-CARE-ELIGIBILITY PROTECTION FOR PENSION RECIPIENTS

Both the House bill (section 302) and the Senate amendment (section 401) contain provisions that would amend chapter 15 of title 38, relating to VA need-based pension programs for permanently and totally disabled elderly wartime veterans and for survivors of wartime veterans, to establish temporary programs designed to help enable certain disabled veteran-pensioners to return to work.

The House bill would establish a 5-year program of vocational training for disabled veterans under age 50 who are newly found to be entitled to pension. Under the House bill, the Administrator would be required to determine, after a personal interview of the veteran by a VA employee trained in vocational counseling, whether the achievement of a vocational goal by the veteran is reasonably feasible. Failure of the veteran to participate as required by the Administrator in order to make the determination would result in suspension of the veteran's pension until the required participation was completed. If achievement of a vocational goal were determined to be reasonably feasible, the veteran could elect to undertake a program of vocational training that would be carried out as a vocational rehabilitation program under chapter 31 of title 38 but would not include any chapter 31 loans or subsistence allowances. Such a program could not exceed 48 months, and following completion of the program the veteran would be eligible for certain chapter 31 counseling, placement, and post-placement services for up to 18 months. Also, in the case of a veteran who is permanently housebound or in need of regular aid and attendance, who has completed a vocational training program under these provisions, and whose pension was thereafter terminated solely because the veteran's annual income exceeded the applicable maximum limitation, the veteran's eligibility for drugs and medicine under section 612(h) of title 38 would be continued for one year after pension termination.

The Senate amendment would establish a 3-year pilot program (which the Administrator could extend to 4 years) to allow any permanently and totally disabled veteran pension recipient to participate in a 36-month period of trial work. Any work performed by the veteran during that period could not be taken into account in any review of the veteran's ability to secure and follow a substantially gainful occupation. Veterans participating in the program would retain their pension-based VA health-care eligibility during their trial work periods even if their pensions were terminated as a result of their work income. Also, a veteran whose pension was terminated due to income derived from participation in a VA or State vocational rehabilitation program would have an additional 12-month eligibility period for VA health-care services. All income received from employment during the trial work period, with the exception of certain subsistence allowances associated with vocational rehabilitation programs, would be counted in determining the veteran's income for pension purposes. The Administrator would be required to report on the results of the pilot program's first 3 years of implementation not later than 39 months after its effective date.

The compromise agreement (section 301) contains provisions derived from these provisions to add new sections 524, "Temporary program of vocational training for certain new pension recipients", and 525, "Temporary protection of certain health-care eligibility", establishing a 4-year—February 1, 1985, through January 31, 1989—program providing for vocational training and VA health-care eligibility protection for permanently and totally disabled veterans receiving awards of VA pension during that period. Under the compromise agreement, a veteran under age 50 who is found to be entitled to pension would be required to undergo evaluation, as under the House bill, to determine whether a vocational goal is reasonably feasible. Failure to participate in the evaluation as required would result in suspension of the veterans' pension if the failure were for reasons other than those beyond the veterans' control. If a vocational goal were determined to be reasonably feasible, the veteran would be eligible for vocational training. New recipients of pension who are 50 years of age or older would be permitted to apply for vocational training under this program. If the Administrator finds that information on the veteran's application shows a good potential for achieving a vocational goal, the age 50-and-over veteran would be given an evaluation and would be eligible for vocational training under this program if the evaluation indicates that achievement of a vocational goal is reasonably feasible.

For a veteran who elects to pursue vocational training under this program, the training would consist of vocationally-oriented rehabilitation services and assistance of the kind provided under chapter 31 and only such other services and assistance of the kind provided under that chapter as are necessary for the veteran to prepare for and pursue vocational training or employment. The compromise agreement would provide that vocational training programs under the program are to be designed to emphasize, whenever appropriate, work-place training and work-place-adjustment counseling during such training. However, no loans or allowances and no automobile adaptive equipment could be provided, and a program of education at an institution of higher learning could be provided only if the program were predominantly vocational in content. A vocational training program for a veteran would be limited to 24 months unless the Administrator were to grant an extension of up to 24 months based on a determination that the extension was necessary in order for the veteran to achieve a vocational goal that was identified during the first 24 months in the veteran's written plan of vocational rehabilitation. The deadline for initiating pursuit of vocational training under this program would be the later of January 31, 1989, or the expiration of a reasonable time (to be determined under regulations to be prescribed by the Administrator) after the evaluation of a veteran under age 50 or the award of pension to a veteran age 50 or over, as the case may be. The compromise agreement would limit to 2,500 the number of veterans who could participate in evaluation under the temporary program during each 12-month period.

Following the veteran's completion of a vocational training program, the veteran would be eligible for certain follow-up services for a period not to exceed 18 months. Payments for all services and assistance under this program (other than the services of VA employees) would be made from the VA appropriations account from which pensions are paid. Also, in the case of a veteran who enters vocational training under the new program and who thereafter loses entitlement to pension because his or her work income causes the annual income limitation applicable to him or her to be exceeded, the veteran's VA health-care eligibility (including any applicable priority) would be preserved for the 3-year period following the date on which his or her pension is terminated.

In addition, under the Senate amendment, the same health-care protection for the same duration would be provided for any veteran whose pension is terminated, during the period of February 1, 1985, through January 31, 1989, because the veteran's work income caused the applicable income limitation to be exceeded. The provision in the Senate amendment that training allowances received by a veteran during the trial work period not be counted for pension purposes is not included in the compromise agreement.

Not later than April 15, 1988, the Administrator would be required to submit to the Committees a report with particular reference to the program's cost-effectiveness and the extent to which the new provisions contribute to veterans becoming employable and employed.

The Committees anticipate that the Administrator, in order to meet the April 15 reporting deadline, will begin preparation of the report well in advance of the end of the first three years of the program.

The Committees note that this new temporary vocational training program is intended to have a vocational and employment focus. In that regard, only where necessary to enable a catastrophically-disabled veteran to participate in training or employment, services and assistance under this program should be provided to the veteran in order to help the veteran overcome problems in daily living. It is the Committees' intention that vocational training programs under this program be designed to emphasize, whenever appropriate, work-place training personnel-adjustment counseling, and work-adjustment training.

The Committees also not that, since rehabilitation services and assistance would be provided under subsection (b) of the new section 525 of title 38—and not under chapter 31 of title 38—an injury suffered by a veteran as a result of pursuit of vocational training under this program would not be a basis—as it would if it were suffered under chapter 31—for an award of compensation under section 351 of title 38 or for health-care eligibility under section 610(a)(3) of title 38.

### REPORT ON MEDICAL EXAMINATIONS OF CERTAIN PENSION RECIPIENTS

The Senate amendment (section 402), but not the House bill, for the purpose of determining the actual percentage disability ratings of certain VA pension recipients, would require the Administrator to prepare and submit a report on the results of conducting, during the 2-year period following the enactment date, medical examinations of veterans awarded VA pension based on their being age 65 or older.

The compromise agreement (section 302) would require that the Administrator, not later than 28 months following the date of enactment, submit to the Committees a report on the results of medical examinations given to a statistically valid sampling of these veterans.

### PARTICIPATION IN THERAPEUTIC OR REHABILITATIVE ACTIVITIES

The Senate amendment (section 602(a), (b), and (c)), but not the House bill, would require the VA to conduct a 39-month demonstration project (and submit by February 1, 1987, a report on the first 2 years' experience) under which the income received by veterans for their participation in VA incentive-therapy and compensated-work-therapy programs would not be counted as income for the purpose of VA pension programs.

The compromise agreement does not contain this provision.

The Senate amendment (section 602(d)), but not the House bill, would amend section 618 of title 38, relating to therapeutic and rehabilitation activities, to specify that a veteran's participation in a VA incentive-therapy or compensated-work-therapy program will not be considered a basis for denying or discontinuing a total disability rating for VA compensation or pension purposes.

The compromise agreement (section 303) contains this provision.

### INCREASES IN MAXIMUM AMOUNTS OF SERVICEMEN'S GROUP LIFE INSURANCE

Both the House bill (section 203) and the Senate amendment (section 504) would amend section 767 of title 38, relating to persons insured and maximum amounts of life insurance coverage available under the Servicemen's Group Life Insurance (SGLI) program. The House bill would, effective October 1, 1984, increase the maximum amount of coverage from $35,000 to $50,000. The Senate amendment would, effective January 1, 1985, permit individuals insured under SGLI and who have served on active duty (or in a reserve component) for a minimum of five years to elect an additional amount of coverage (in multiples of $5,000) up to a maximum of $50,000 in total coverage.

The compromise agreement contains neither provision.

### SPECIALLY ADAPTED HOUSING ASSISTANCE

The Senate amendment (section 501) and section 1(a) of H.R. 5617 as passed by the House on May 21, 1984 (hereinafter referred to as "H.R. 5617"), would amend chapter 21 of title 38, to increase maximum amounts of assistance available under that program. The Senate amendment would increase from $32,500 to $35,750, effective July 1, 1985, the maximum amount of the specially adapted housing assistance grant for certain severely service-connected disabled veterans with mobility impairments, and from $5,000 to $5,500, effective July 1, 1985, the maximum amount of special housing assistance for service-connected veterans who are blind or have lost, or lost the use of, both upper extremities. H.R. 5617 would increase those amounts to $35,000 and $6,000, respectively, effective October 1, 1984.

The compromise agreement (section 304), effective January 1, 1985, would increase to $35,500 the maximum amount of the specially adapted housing assistance grant and to $6,000 the maximum amount of special housing assistance.

### VA HOME-LOAN GRANT MAXIMUMS

H.R. 5617 (sections 1(b) and (c)), but not the Senate amendment, would amend chapter 37 of title 38, relating to the VA's home-loan guaranty program, to increase effective, October 1, 1984, the maximum amount of the VA home-loan guaranty from $27,500 to $30,000 in the case of conventional housing and from $20,000 to $22,000 in the case of manufactured housing.

The compromise agreement does not contain this provision.

### AUTOMOBILE ADAPTIVE ASSISTANCE

Both the House bill (section 204(a)) and the Senate amendment (section 502) would amend section 1902 of title 38, relating to the automobile adaptive assistance program, to increase the automobile assistance grant for certain severely disabled service-connected veterans. The House bill would increase the maximum grant from $4,400 to $5,000, effective October 1, 1984, and the Senate amendment to $4,840, effective July 1, 1985.

The compromise agreement (section 305(a)) would increase the maximum amount of the automobile assistance grant to $5,000, effective January 1, 1985.

The House bill (section 204(b) and the Senate amendment, incorporating the provisions of S. 2514, to H.R. 5618 (section 7), as passed by the Senate on August 9, 1984 (hereinafter referred to as "the Senate amendment to H.R. 5618"), would amend section 1903(c) of title 38, relating to the furnishing of automobile adaptive equipment, to modify the manner in which reimbursement for adaptive equipment is made to certain severely service-connected disabled veterans. The House bill would provide that a veteran may transfer title of a previously-adapted vehicle to any person and retain entitlement to reimbursement for adaptive equipment within the limit, currently prescribed by VA regulation, of 3 adaptations within a 2-year period with ownership limited to no more than one vehicle at any one time. The Senate amendment to H.R. 5618 would provide that a veteran is not entitled to reimbursement for more than 2 vehicles at any one time or for more than 2 vehicles in a 4-year period (with a waiver of the 2-in-4 limitation if the adapted vehicle is no longer available to the veteran due to circumstances beyond the control of the veteran).

The compromise agreement (section 305(b)) contains the Senate provisions.

## TITLE IV—MISCELLANEOUS AMENDMENTS

### DEFINITION OF VIETNAM ERA

The Senate amendment (section 601), but not the House bill, would amend section 101 of title 38, United States Code, relating to definitions for purposes of title 38, to expand the definition of the Vietnam era (August 5, 1964, through May 7, 1975) for the purposes of title 38, United States Code, to include the period beginning on February 21, 1961, and ending on August 5, 1964, in the case of those who served in Vietnam during that time.

The compromise agreement does not contain this provision.

### ADVISORY COMMITTEE ON VETERANS EXPOSED TO IONIZING RADIATION

The House bill (section 201), but not the Senate amendment, would amend chapter 3, relating to the organization of the Veterans' Administration, to establish an Advisory Committee on Veterans Exposed to Ionizing Radiation to review and advise the Administrator with respect to the special problems and needs of veterans exposed to ionizing radiation.

The compromise agreement does not contain this provision.

The Committees note that the compromise agreement on H.R. 1961/S. 1651 as passed by the House of Representatives on October 3, 1984, would establish a Veterans' Advisory Committee on Environmental Hazards, including a Scientific Council thereof. The Council would be composed of two panels, one of which would focus on the health effects on certain veterans of those veterans' exposure to ionizing radiation during service. The Committees believe that this Scientific Council will address a number of the objectives of section 201 of the House bill.

### HEADSTONES OR GRAVEMARKERS

H.R. 5617 (section 2), but not the Senate amendment, would amend section 1004(c) of title 38, relating to the administration of national cemeteries and the marking of gravesites therein, to require, effective October 1, 1984, that with respect to persons who die after September 30, 1984, markers provided to mark graves in such cemeteries be upright unless the person to be buried previously requested (or the survivor or legal representative of the person buried requests) that the grave be marked with a flat marker, and that, if the grave is marked with a flat marker, the grave be in a portion of the cemetery set aside from graves with flat markers. H.R. 5617 further provides that the administrator may waive the requirement and deny a request for an upright marker with respect to persons who die on or after October 1, 1984, and before January 1, 1985, if the national cemetery in which the burial will take place does not have a section reserved for graves with upright markers. Finally, H.R. 5617, would require the Administrator, prior to January 1, 1985, to designate a section of each cemetery in the National Cemetery System in which graves will be marked with upright markers and a section in which graves will be marked with flat markers.

The compromise agreement does not contain this provision.

The Committees are not satisfied with the cost data submitted by the Veterans' Administration in justifying the Administration's opposition to the House provision requiring the use of upright markers in national cemeteries. It is the Committee's intent that the Veterans' Administration reconsider this cost estimate in preparation for further Committee hearings on this issue next year.

### EFFECTIVE DATE OF REDUCTIONS

The Senate amendment (section 603), but not the House bill, would amend section 3012(b) of title 38, relating to the effective date of reductions in compensation, disability, disability and indemnity compensation, and pension, to establish the last date of school attendance as the termination date for certain veterans' dependents' allowances paid on behalf of children between the ages of 18 and 23 who are attending school.

The compromise agreement does not contain this provision.

### SUSPENSION OF COMPENSATION AND PENSION PAYMENTS TO CERTAIN INSTITUTIONALIZED VETERANS; WAIVER

The Senate amendment (section 604), but not the House bill, would amend section 3203(b)(1) of title 38, relating to limitations on the size of certain single, institutionalized, incompetent veterans' estates which, when exceeded, result in the suspension of benefit payments by the VA, to remove a reference to mental illness as the cause of the incompetence; to permit the VA to exclude the value of the veteran's home from the estate unless there is no reasonable likelihood that the veteran will again reside in the home; and to permit the Administrator, where necessary in order to avoid a hardship for the veteran, to waive the suspension of benefits requirement in the case of a veteran who is institutionalized for a total of not more than 60 days during any calendar year.

The compromise agreement (section 402) contains this provision.

The Committees intend that the Administrator use this discretionary authority only in those cases where it is established that without the waiver the veteran will suffer significant financial hardship. The waiver is not to be used as an administrative expediency, nor where liquid assets are readily available to meet current expenses.

### GENDER REFERENCES

The Senate amendment (section 605), but not the House bill, would amend section 103 of title 38, relating to special provisions relating to marriages, to remove various gender references.

The compromise agreement does not contain this provision.

The Committees note their intention to develop a measure that will remove all gender references throughtout title 38 and to pursue enactment of that measure in the next Congress.

**Mr. CRANSTON.** Mr. President, as the ranking minority member of the Committee on Veterans' Affairs, I am delighted to join with my good friend, the committee chairman [Mr SIMPSON], in urging the Senate to concur in the House amendments to the Senate amendments to H.R. 5688, the proposed "Veterans' Benefits Improvement Act of 1984." The House substitute amendment reflects a compromise agreed to between the two Veterans' Affairs Committees after extensive discussions and negotiations. This is a vitally important measure that provides for a VA compensation cost-of-living adjustment—COLA—and GI bill rate increase, together affecting over 3½ million persons, along with a wide range of other provisions to improve benefits programs for our Nation's veterans—especially those with service-connected and other serious disabilities.

### BACKGROUND

Mr. President, H.R. 5688 was first passed by the House on June 18, 1984. On October 2, 1984, the Senate took up S. 2736 as reported by the Committee on Veterans' Affairs. The Senate substituted the provisions of S. 2736, with two floor amendments, as an amendment to the text of H.R. 5688 as passed by the House and then passed H.R. 5688, returning it to the House. Earlier today, the House of Representatives amended the Senate amendment with a substitute which, as I just noted, represents a compromise agreement reached by the Veterans' Affairs Committees. Hence, this legislation before the Senate today is in the nature, although not the form technically, of a conference report.

Mr. President, the compromise agreement represents a most equitable resolution of the differences between the two bodies on this legislation. The Senate's position on the matters addressed in the compromise—including a number of key provisions derived from provisions I authored—are well represented in the final agreement. The committees, both majority and minority members, have worked closely together in achieving this compromise. The end result is an excellent demonstration of our committee's bipartisan, continuing concern for our Nation's veterans.

### PROVISIONS OF THE COMPROMISE AGREEMENT

Mr. President, each of the provisions of the compormise agreement is described authoritatively in the explanatory statement developed by the two Committees on Veterans' Affairs that the chairman of the Senate committee has inserted in the RECORD as part of his remarks and which was inserted in identical form by the chairman of the House committee when this measure was considered in the other body. I wish to highlight certain elements of the

### COMPENSATION RATE INCREASE

I firmly believe that the needs of the 2.3 million veterans with service-connected disabilities and the 300,000 survivors of those who died from service-connected causes must be our committees' No. 1 priority. The continuing fulfillment of the commitment we've established for our highest priority veterans to grant compensation benefit increases at least equal to increases in Social Security and VA pension benefits is, therefore, a matter of great importance to me.

Thus, I want to stress my strong support for the 3.2-percent increase that this compromise agreement would provide, effective December 1, 1984, in the rates of compensation for service-connected disabled veterans and of dependency and indemnity compensation—DIC—for survivors.

Mr. President, I was delighted to join on June 7 with the distinguished chairman of the committee [Mr. Simpson] in introducing S. 2736 to propose this increase and am especially delighted that the increase will be effective on December 1 of this year—rather than on April 1, 1985, as the administration had proposed. This policy on the effective date was established by section 108 of Public Law 98-223, which I authored last year, expressing the sense of the Congress that the effective date for compensation COLA's in fiscal year 1985 and beyond should be December 1—the same as the effective date for Social Security and VA pension COLA's.

Mr. President, S. 2736 as passed by the Senate provided that if the Social Security/VA pension COLA that will take effect this year on December 1 by operation of law is not 4.7 percent, the COLA rate provisionally provided for in the committee bill on the basis of the Congressional Budget Office's projection of the increase in the Consumer Price Index—CPI—from the third quarter of fiscal year 1983 to the third quarter of fiscal year 1984, the VA compensation COLA would be adjusted to correspond to the actual Social Security/VA pension COLA.

However, during negotiations with the House Veterans' Affairs Committee, we agreed on an increase of 3.2 percent rather than including this administrative-adjustment provision in the compromise agreement. That percentage is what the informal CBO estimate is at present for the Social Security CPI increase, and the budget resolution for fiscal year 1985, House Concurrent Resolution 280, adopted on October 1, allows room in function 700, veterans' benefits and services, for a compensation COLA in that amount.

### GI BILL RATE INCREASE

Mr. President, I also fully support the provisions of the compromise agreement that would increase the rates of GI bill and vocational rehabilitation training, education, and subsistence allowances. The increases to be provided by this measure—which are the same as those proposed in a measure I also joined the distinguished chairman in introducing on June 7, and which are consistent with the budget recommendations this committee made in March—would be 10 percent, effective October 1, 1984, and would benefit more than half a million GI bill trainees in fiscal year 1985. Although this percentage is less than I proposed when I introduced S. 9 a year and a half ago, and less than the administration finally got around to agreeing to propose a year later, which was the increase approved by the House, it would take effect 3 months sooner than the administration or the House had proposed. Our October 1 effective date would mean that more assistance will be available to the individual veteran throughout the upcoming fiscal year than would be the case under the administration's approach and that the assistance would be available near the beginning of the school year when the costs of education are greatest.

### TRIAL WORK AND VOCATIONAL REHABILITATION

Mr. President, as a principal author both of the Rehabilitation Act of 1973, the basic law providing for the Federal-State Vocational Rehabilitation Program and a wide range of other programs, and establishing certain civil rights, for disabled persons, and of the 1980 legislation, title I of Public Law 96-466, that comprehensively restructured the VA's Rehabilitation Program for service-connected-disabled veterans—and because of my deep personal commitment to helping make it possible for individuals with disabilities to participate fully in all aspects of our society—I am particularly enthusiastic about sections 111 and 301 of the compromise agreement. These sections would establish two 4-year pilot programs designed to help identify and overcome work disincentives under current law—one program for certain service-connected-disabled veterans and the other for disabled wartime veterans receiving need-based VA pension—and to assist veterans in both categories in returning to work.

I am particularly pleased that we have been able to reach agreement with the House committee—and are at the point of enacting—these provisions giving tangible recognition to the proposition that a return to employment is a real possibility for those who are permanently and totally disabled and that national policy should be to remove disincentives to their working as well as to provide them with specific assistance and encouragement in their efforts to rejoin the work force.

In the 1978 conference with the House on legislation enacted in the Veterans' and Survivors' Pension Improvement Act of 1978, we on the Senate side fought long and hard to retain Senate provisions to avoid—by providing for a partial disregard of the work earnings of low-income veterans—the creation of work disincentives in the new VA pension program that was to be created by that measure. Because our House counterparts at that time were adamantly opposed to our approach, we were totally unsuccessful at that time in our efforts to gain acceptance of the Senate provisions—or any compromise on them. The essence of the House position at that time was that the Senate provisions were entirely inappropriate in a needs-based income-maintenance program for permanently and totally disabled veterans and veterans over 65 years of age.

Thus, I am delighted that the House committee this year proposed, in section 202 of H.R. 5688, a vocational rehabilitation pilot project for certain disabled veteran-pensioners, and I am deeply grateful that the House committee leadership worked so helpfully and cooperatively with us on the Senate side to blend together, in section 301 of the compromise agreement, the House provisions and the Senate-passed trial-work provisions that I authored relating to the pension program. I am likewise grateful that our House counterparts worked with us so constructively regarding our proposal for a new pilot program, now embodied in section 111 of the agreement to provide trial-work and increased vocational rehabilitation opportunities for service-connected disabled veterans who have total disability ratings by reason of individual determinations of unemployability—so-called IU ratings.

I believe strongly that the compromise agreement provisions regarding training and rehabilitation for disabled veterans are significant improvements on the provisions in these areas that each House initially developed.

Mr. President, on June 13, 1974, I introduced S. 2759, a bill to provide for periods of trial work—comparable to periods of trial work for Social Security Act disability recipients—for veterans with IU ratings. Also, in connection with our committee's June 27 hearing, I put forward, and sought the comments of the witnesses on, draft proposals to refine the provisions of S. 2759 and to provide for a trial-work period, including VA health-care eligibility provisions, for veteran-pensioners. These provisions—with certain enhancements and limitations on the duration of these programs worked out with our distinguished committee chairman [Mr. Simpson]—were included in S. 2736 as reported in the Senate amendment. Those provisions, together with the compromise agreement provisions are, as I have noted, described in the explanatory statement that Senator Simpson has inserted at the conclusion of his remarks on this measure.

With respect to the provisions in section 301 of the compromise agreement, combining, with modifications, the House's vocational rehabilitation services provisions with the provisions I proposed to protect the VA health-care eligibility of veteran-pensioners who lose their pension eligibility by virtue of their work income, I note that I was initially reluctant to accept the House provisions. My reluctance was based on the fact that the House bill would have given non-service-connected-disabled veterans eligibility for services under the VA's vocational rehabilitation program for service-connected disabled veterans, which is conducted under chapter 31 of title 38. I do not believe that a special program such as this for service-connected disabled veterans should be opened up to other veterans and thereby possibly lose its identity and have its resources diluted. However, our colleagues on the House committee were most flexible in working out a reshaping of their provisions. Thus, the compromise agreement reflects changes under which the services involved would be provided outside of chapter 31—and not necessarily through the VA personnel who provide chapter 31 evaluation and counseling services, although that would be permitted and would probably be desirable—and would be clearly focused on vocationally oriented objectives; funding for training and any services purchased would be funded out of the pension account not the readjustment benefits account, out of which chapter 31 benefits are paid; persons over age 50 could also participate—something I felt strongly about; and the number of veterans covered by the House bill being evaluated in each year would be limited to 2,500.

Thus, I am truly delighted now to be able to give my full support to these provisions and am most grateful to my friend, Chairman Simpson, for his openmindedness in agreeing to them as well as for his many contributions in helping reshape them. Again, I congratulate the House committee for initiating the efforts which I believe are about to lead to some very innovative and highly creative new programs.

Mr. President, I would note that these are pilot programs, with reports to be submitted by the Administrator on the first 3 years' experience under them. As our committee report noted, the programs were specifically designed in light of their time-limited nature. Thus, the committees have made no decisions on what modifications might be needed if the programs were to be made permanent at some later date.

Another provision related to helping disabled veterans in returning to work, section 301 of the compromise agreement, would specify that a veteran's participation in a VA incentive-therapy [IT] or compensated-work-therapy [CWT] program will not be considered a basis for denying or discontinuing a total disability rating for VA compensation or pension purposes. This provision was a part of a provision I authored, originally included in section 8 of S. 2514 as reported by our committee in May but later deleted from that bill and included as section 602 in S. 2736 in response to procedural Budget Act considerations. The provisions would have required the VA to conduct a 3-year demonstration project, ending on December 31, 1987, during which income earned by participants for their participation in IT and CWT Programs would not be counted in determining annual income for VA pension purposes. I believe such a demonstration project is necessary so as to determine the nature and size of the impact of a recent change made by the VA to count such income for pension purposes, thereby resulting in a reduction in pension payments for many participants in the two programs. The anecdotal information available to our committee was that the change has resulted in a significant drop in the number of individuals willing to participate in what are generally regarded as successful therapy programs.

I regret that our colleagues in the House were unwilling to accept this demonstration project. Since the General Accounting Office is already looking into the issue as part of an ongoing GAO study of VA psychiatric programs, I am confident that we will gain information on the impact of the VA's policy change. However, I deeply regret the significant disruption and hardship that will be occurring to seriously disabled, impoverished veterans while that information is being gathered.

### OTHER PROVISIONS

I'm delighted that provisions derived from a number of other measures I have introduced or proposed as amendments in committee are included in the compromise agreement.

### EMPLOYMENT PROGRAMS

Section 211 would extend the authority for veterans readjustment appointments—VRA's—by 2 years, until September 30, 1986. On February 7, 1984, I introduced S. 2268 with committee members Randolph, Matsunaga, and DeConcini, as well as Senator Byrd. That bill proposed a 3-year extension. However, in committee, a 1-year extension was all we could achieve agreement on for this program, which has provided employment opportunities in the Federal Government to hundreds of thousands of Vietnam-era veterans. I am delighted that the compromise agreement will extend the program for 2 years. The compromise agreement also incorporates, as I proposed, an administration-requested provision to provide first-year VRA appointees with certain limited appeal rights.

Section 212 would extend by 6 months—through September 1, 1985—the period that veterans have to apply for participation in the program established by the Emergency Veterans' Job Training Act of 1983—EVJTA—and by 3 months—to February 28, 1985—the date by which a veteran must enter a program of training under EVJTA. This section would also extend from 60 to 90 days the lifetime of the certificate of eligibility furnished veterans under that program. On June 13, 1984, I introduced, with Senator DeConcini, S. 2760, which would have extended both deadlines by 6 months in addition to extending the lifetime of the certificate. These provisions of the compromise agreement will go a long way toward helping veterans who have been determined to need job training assistance.

EVJTA, enacted on August 15, 1983, was designed to provide employers with incentives, in the form of payments to defray training costs, to hire and train long-term unemployed Korean-conflict and Vietnam-era veterans. Section 17(a) of EVJTA provided that, if funding for the program had been appropriated and made available to the VA by October 1, 1983, a veteran desiring to participate would be required to apply by September 30, 1984, and to enter a program of training by December 31, 1984. However, because of the possibility that appropriations might not become available by that date, I proposed and the law incorporated a tolling period. Under this mechanism, in section 17(b) of the law, the veteran has until 1 year after the date on which appropriations are made available for the program to apply and until 15 months after that to enter training.

The first $75 million in funds for the program were appropriated on November 14, 1983, as part of a continuing appropriations resolution for fiscal year 1984, Public Law 98-151. Since these funds were not released by the Office of Management and Budget to the VA until November 29, 1983, eligible veterans have until November 29, 1984, to apply, and until March 1, 1985, to enter training. The remainder of the full amount, $150 million, authorized by section 16 of EVJTA to be appropriated for fiscal year 1984 for payments to employers under this program was provided when a second $75 million appropriation was included in the fiscal year 1984 supplemental appropriations measure, Public Law 98-161, enacted on November 30, 1983.

Despite the very high degree of interest that veterans have shown in the program, it got off to a very slow start in terms of the placement of eligible veterans in approved jobs. As of September 4—according to the VA—246,547 veterans had applied for the program and 201,655 had been certified as eligible. Also as of that date, 27,111 employers had been approved to offer training for 60,379 job slots. This means that jobs are available or could be made available for nearly 30 percent of those eligible for the program. However, as of that date, only 13,717 veterans had been placed in jobs under EVJTA—less than 25 percent of the number of approved job slots.

Mr. President, I have been dissatisfied with the performance under the program thus far and continue to believe strongly that the program can be of much greater assistance in meeting the needs of long-term unemployed veterans of the Vietnam era and the Korean conflict. A partial cause for the disappointing performance may have been that the program became effective at the beginning of the holiday season, which may have slowed the rate at which employers began to participate in the program at the outset.

However, Mr. President, I'm concerned that at the root of the failure of the program to be as successful as it could be is the failure on the part of the Department of Labor and the VA—the agencies jointly responsible for implementation of the program—to be sufficiently aggressive in carrying out their responsibilities, particularly their placement responsibilities—that is, their responsibilities for matching eligible veterans with available job slots.

Thus, I'm pleased that both committees have agreed that the program should be given additional time in order to achieve its potential.

### ADAPTIVE HOUSING AND AUTOMOBILE ASSISTANCE

Section 304 of the compromise agreement would grant an increase, effective January 1, 1985, in the rates of maximum assistance available for adapted housing for certain service-connected, severely disabled veterans. In the case of veterans receiving assistance under the major program—the so-called "wheelchair home" program—the maximum level of assistance would be increased from $32,500 to $35,500. In the case of veterans receiving assistance for home adaptations necessitated by the loss, or loss of use, of both upper extremities, or by blindness, the level of assistance would be increased from $5,000 to $6,000. On February 7 and March 20, I introduced S. 2264 and S. 2451, respectively, the latter of which is cosponsored by Senators Randolph, Matsunaga, DeConcini, and Sarbanes. These measures proposed increases in the levels of assistance under these two programs from $32,500 and $5,000, respectively, to $38,800 and $6,000. Although the rates for the specially adapted housing grant are lower than we had proposed, I am gratified that the committees have agreed to increases in these allowances that will help ameliorate the erosion in the value of these benefits made by increases in housing costs.

Section 305 would grant an increase, effective January 1, 1985, in the automobile assistance allowance. On February 7, I introduced S. 2267, which is cosponsored by Senators Randolph, Matsunaga, and DeConcini. This measure proposed an increase in the automobile assistance allowance to $4,840 and that was the level subsequently approved by the Senate in S. 2736. The increase in the compromise agreement—from $4,400 to $5,000—would help ameliorate the erosion in the value of this benefit for certain service-connected, severely disabled veterans made by increases in automobile costs.

### MISCELLANEOUS AMENDMENTS

Other provisions in the compromise agreement, Mr. President, would make a technical, conforming change relating to the manner in which dependents' allowances are paid to veterans with service-connected disabilities incurred during peacetime; would repeal a VA reporting requirement relating to deceptive advertising by educational institutions; and would modify provisions specifying what is considered to be part of the veteran's estate for purposes of payment of benefits to certain institutionalized, incompetent veterans and provide the Administrator with authority to waive, under certain circumstances, the suspension of benefits for such institutionalized veterans.

### ITEMS NOT CONTAINED IN COMPROMISE AGREEMENT

Mr. President, as I noted, this measure is a compromise and, as with all compromises, it does not contain all of the provisions each of the parties would like to have included. Some provisions—a number of which I had great interest in and supported strongly—were dropped in reaching the final agreement.

Section 210 of the Senate-passed legislation contained provisions, similar to ones I proposed and the committee and the Senate have now approved four times, to toll a veteran's or eligible person's delimiting period when the individual has been prevented from using his or her GI bill benefits on account of a drug or alcohol dependence or abuse condition from which he or she has recovered. These provisions, which I have been pursuing since 1979 and are strongly supported by the distinguished Senator from Minnesota [Mr. Boschwitz], were incorporated into the Senate measure at our request. I deeply regret that once again, for the fourth time, the House has refused to accept these provisions.

Section 212 of the Senate amendment would have required the Administrator, prior to making any changes in the enrollment certifications required to be submitted by educational institutions on behalf of their GI bill students, to consult with and obtain the recommendations of the VA's Advisory Committee on Education. This provision, which I authored, was designed to ensure that, before the VA proceeds with any proposal such as the one now pending—published in the Federal Register on June 30, 1983—to require schools to certify attendance on a term-by-term basis, the advisory committee would first make recommendations on the proposal and on possible alternatives to accomplish the goal of reducing overpayments. This process would help ensure that any changes that are implemented are carefully reviewed and considered by the education experts on the advisory committee who can evaluate fully the effect and workability of any such proposal. However, since a subcommittee of the advisory committee is already reviewing the new proposal, it was decided that it was not necessary to include this provision in the compromise agreement. It would be my expectation that the Administrator will not proceed to implement any proposals prior to receiving the recommendations of that committee. In that regard, I point out that the committees' explanatory statement, printed in the Record by our committee chairman, states:

> The Committees note that they do not believe that a statutory requirement is needed to bring about the consultation sought by the Senate amendment, since this is the purpose for which Congress established the advisory committee.

Section 601 of the Senate-passed bill—derived from section 2 of S. 2269 as introduced—would have modified the definition of the Vietnam era for title 38 purposes to include, in the case of those who served in the Republic of Vietnam, the period beginning on February 28, 1961, the date established in Public Law 89-257 for acceptance of foreign awards for service in Vietnam, and ending on May 7, 1975, the current law ending date for the Vietnam era. I continue to believe that it makes little sense to tell veterans who served in Vietnam prior to August 5, 1964—the starting date of the "Vietnam era" for title 38 purposes—particularly those who faced combat conditions during their service, that they are not Vietnam veterans. Thus, I am disappointed that our colleagues in the House were unwilling to accept the Senate-passed change.

Finally, in connection with items not contained in the compromise agreement that were in the Senate amendment, I am deeply disappointed that, in conjunction with the increases in GI bill benefits, the committees were not able to agree on the issue of increases in reporting fees and increases in State approving agency allowances. Thus, the compromise agreement does not contain increases in either amount. I strongly believe that an increase in the amount of the reporting fee—last increased in 1977—is merited, and I think it is noteworthy that the administration concurs in that belief. I will, therefore, be pursuing this issue as well as others deleted from the Senate measure, in an appropriate fashion next Congress.

Other provisions not included in the compromise agreement that were contained in the Senate-passed bill are provisions to increase maximum amounts of Servicemen's Group Life Insurance, to establish a termination date for certain compensation and pension benefits paid on behalf of dependents enrolled in higher education, to delete various gender references in title 38, United States Code, and to provide for a demonstration project under which income received by participation in an IT or CWT program would not be counted for VA pension purposes, which I discussed earlier.

### HOME LOAN GUARANTY INCREASE NOT INCLUDED

Finally, Mr. President, I must mention the adverse resolution of one matter that is a particular disappointment to me, the non-inclusion in this compromise agreement of an increase in the maximum amounts of VA home loan guaranties. Earlier this year, in S. 2451, I had proposed that the maximum amount of the guaranty for conventional housing be increased from $27,000 to $35,000, and for manufactured housing from $20,000 to $22,000. Unfortunately, this proposal was not incorporated in the Senate bill.

However, in connection with H.R. 5617, the House approved increases in these amounts to $30,000 and $22,000, respectively. Therefore, I was hopeful that action on this matter could occur in the compromise agreement.

Regrettably, Mr. President, despite my strong support for these increases in the deliberations on the compromise agreement, it does not contain them. Nevertheless, my support for appropriate increases continues, and I assure my colleagues that I will be pursuing this issue vigorously in the next Congress.

### CONCLUSION

Mr. President, before concluding my remarks, I want to take a moment to express my thanks to those who worked so diligently on this measure, both for their outstanding efforts and for the cooperation and courtesy that was extended to me and the members of the committee's minority staff. I would first thank the distinguished chairmen of each committee, Senator Simpson and Congressman Montgomery, and the ranking minority member [Mr. Hammerschmidt] of the House Committee, for their many contributions to the development of this measure.

In addition, the excellent work on this measure by staff members of the House Committee—Mack Fleming, Frank Stover, Arnold Moon, Charlie Peckarsky, Jill Cochran, Rufus Wilson, Gloria Royce, and Pat Ryan—as well as the technical assistance of Robert Cover, assistant counsel, Office of the House Legislative Counsel, was invaluable and is deeply appreciated. I also want to make special note of the fine work done on this measure by the Senate Committee's majority staff members, Anthony Principi and Julie Susman.

Further, I want to take this opportunity to welcome aboard the committee's newest staff member on the majority, Kathleen McTighe, the committee counsel. Cathy joined the staff only recently, and despite the fact that during the height of work on the pending measure she suffered a deep, personal tragedy, she contributed significantly to the development of the measure. Thus, I want to express to her my particular appreciation for work as well as my sincere sympathies on her loss.

Finally, I also express my deepest appreciation to the members of the minority staff for their usual excellent work on my behalf—Babette Polzer, Bill Brew, Ed Scott, Ingrid Post, Charlotte Hughes, Jennifer McCarthy, and Jon Steinberg.

With final passage of this compromise agreement at hand, Mr. President, the Congress is once again reaffirming its commitment to those who, as a result of so serving, now bear the scars of battle. It is also initiating some truly creative pilot programs to assist disabled veterans in becoming employable and employed.

Mr. President, the compromise agreement now before the Senate is a truly excellent one. I urge my colleagues to approve it unanimously.

**Mr. BAKER.** Mr. President, I move that the Senator concur in the House amendments.

The **PRESIDING OFFICER.** The question is on agreeing to the motion of the Senator from Tennessee.

The motion was agreed to.

## APPENDIX E

Public Law 98-543
98th Congress

# An Act

To amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans and of dependency and indemnity compensation for surviving spouses and children of veterans, to increase the rates of subsistence and educational assistance allowances for veterans pursuing vocational rehabilitation programs under chapter 31 of such title and for veterans and eligible persons pursuing programs of education or training under chapter 34, 35, or 36 of such title, to increase the opportunities for vocational rehabilitation of certain veterans receiving disability compensation, and to provide vocational training opportunities for certain veterans receiving pension; and for other purposes.

Oct. 24, 1984
[H.R. 5688]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE

Veterans' Benefits Improvement Act of 1984.
38 USC 101 note.

SECTION 1. (a) This Act may be cited as the "Veterans' Benefits Improvement Act of 1984".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

## TITLE I—DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION

### PART A—RATE INCREASES

### DISABILITY COMPENSATION

SEC. 101. (a) Section 314 is amended—

*Ante*, p. 37.

(1) by striking out "$64" in subsection (a) and inserting in lieu thereof "$66";

(2) by striking out "$118" in subsection (b) and inserting in lieu thereof "$122";

(3) by striking out "$179" in subsection (c) and inserting in lieu thereof "$185";

(4) by striking out "$258" in subsection (d) and inserting in lieu thereof "$266";

(5) by striking out "$364" in subsection (e) and inserting in lieu thereof "$376";

(6) by striking out "$459" in subsection (f) and inserting in lieu thereof "$474";

(7) by striking out "$579" in subsection (g) and inserting in lieu thereof "$598";

(8) by striking out "$671" in subsection (h) and inserting in lieu thereof "$692";

(9) by striking out "$755" in subsection (i) and inserting in lieu thereof "$779";

(10) by striking out "$1,255" in subsection (j) and inserting in lieu thereof "$1,295";

(11) by striking out "$1,559" and "$2,185" in subsection (k) and inserting in lieu thereof "$1,609" and "$2,255", respectively;

(12) by striking out "$1,559" in subsection (l) and inserting in lieu thereof "$1,609";

(13) by striking out "$1,719" in subsection (m) and inserting in lieu thereof "$1,774";

(14) by striking out "$1,954" in subsection (n) and inserting in lieu thereof "$2,017";

(15) by striking out "$2,185" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$2,255";

(16) by striking out "$938" and "$1,397" in subsection (r) and inserting in lieu thereof "$968" and "$1,442", respectively;

(17) by striking out "$1,404" in subsection (s) and inserting in lieu thereof "$1,449"; and

(18) by striking out "$271" in subsection (t) and inserting in lieu thereof "$280".

38 USC 314 note.

(b) The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

38 USC note prec. 101.

38 USC 301 *et seq.*

## ADDITIONAL COMPENSATION FOR DEPENDENTS

*Ante*, p. 38.

SEC. 102. Section 315(1) is amended—

(1) by striking out "$77" in clause (A) and inserting in lieu thereof "$79";

(2) by striking out "$128" and "$41" in clause (B) and inserting in lieu thereof "$132" and "$42", respectively;

(3) by striking out "$52" and "$41" in clause (C) and inserting in lieu thereof "$54" and "$42", respectively;

(4) by striking out "$62" in clause (D) and inserting in lieu thereof "$64";

(5) by striking out "$139" in clause (E) and inserting in lieu thereof "$143"; and

(6) by striking out "$116" in clause (F) and inserting in lieu thereof "$120".

## CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS

*Ante*, p. 38.

SEC. 103. Section 362 is amended by striking out "$338" and inserting in lieu thereof "$349".

## DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES

*Ante*, p. 38.

SEC. 104. (a) Subsection (a) of section 411 is amended to read as follows:

"(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

| "Pay grade | Monthly rate | Pay grade | Monthly rate |
|---|---|---|---|
| E-1 | $476 | W-4 | $682 |
| E-2 | 490 | O-1 | 602 |
| E-3 | 502 | O-2 | 621 |
| E-4 | 535 | O-3 | 665 |
| E-5 | 549 | O-4 | 703 |
| E-6 | 561 | O-5 | 775 |
| E-7 | 589 | O-6 | 873 |
| E-8 | 621 | O-7 | 944 |
| E-9 | [1] 649 | O-8 | 1,035 |
| W-1 | 602 | O-9 | 1,111 |
| W-2 | 626 | O-10 | [2] 1,217 |
| W-3 | 644 | | |

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $700.

"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,305.".

(b) Subsection (b) of such section is amended by striking out "$53" and inserting in lieu thereof "$55".

(c) Subsection (c) of such section is amended by striking out "$139" and inserting in lieu thereof "$143".

(d) Subsection (d) of such section is amended by striking out "$68" and inserting in lieu thereof "$70".

### DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 105. Section 413 is amended— *Ante*, p. 39.

(1) by striking out "$233" in clause (1) and inserting in lieu thereof "$240";

(2) by striking out "$334" in clause (2) and inserting in lieu thereof "$345";

(3) by striking out "$432" in clause (3) and inserting in lieu thereof "$446"; and

(4) by striking out "$432" and "$87" in clause (4) and inserting in lieu thereof "$446" and "$90", respectively.

### SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 106. Section 414 is amended— *Ante*, p. 39.

(1) by striking out "$139" in subsection (a) and inserting in lieu thereof "$143";

(2) by striking out "$233" in subsection (b) and inserting in lieu thereof "$240"; and

(3) by striking out "$118" in subsection (c) and inserting in lieu thereof "$122".

### EFFECTIVE DATE

SEC. 107. Sections 101 through 106 shall take effect on December 1, 1984. 38 USC 314 note.

## PART B—COMPENSATION PROGRAM AMENDMENTS

### TRIAL WORK PERIOD AND VOCATIONAL REHABILITATION PILOT PROJECT

SEC. 111. (a)(1) Subchapter VI of chapter 11 is amended by adding at the end the following new section:

38 USC 363.

**"§ 363. Temporary program for trial work periods and vocational rehabilitation for certain veterans with total disability ratings**

"(a)(1) The disability rating of a qualified veteran who begins to engage in a substantially gainful occupation during the program period may not be reduced on the basis of the veteran having secured and followed a substantially gainful occupation unless the veteran maintains such an occupation for a period of 12 consecutive months.

"(2) For purposes of this section:

"(A) The term 'qualified veteran' means a veteran who has a service-connected disability, or service-connected disabilities, not rated as total but who has been awarded a rating of total disability by reason of inability to secure or follow a substantially gainful occupation as a result of such disability or disabilities.

"(B) The term 'program period' means the period beginning on February 1, 1985, and ending on January 31, 1989.

"(b) During the program period, the Administrator shall make counseling services described in section 1504(a)(2) of this title and placement and postplacement services described in section 1504(a)(5) of this title available to each qualified veteran (whether or not the veteran is participating in a vocational rehabilitation program under chapter 31 of this title).

38 USC 1500 *et seq.*

"(c)(1)(A) Except as provided in paragraph (4) of this subsection, in the case of each award during the program period of a rating of total disability described in subsection (a)(2)(A) of this section to a veteran, the Administrator shall provide to the veteran, at the time that notice of the award is provided to the veteran, a statement providing—

"(i) notice of the provisions of this section;

"(ii) information explaining the purposes and availability of and eligibility for, and the procedures for pursuing, a vocational rehabilitation program under chapter 31 of this title; and

"(iii) a summary description of the scope of services and assistance available under that chapter.

"(B) After providing the notice required under subparagraph (A) of this paragraph to a veteran, the Administrator shall arrange as promptly as is practical for the veteran to be provided an evaluation in order to make a determination as to whether the achievement of a vocational goal by the veteran is reasonably feasible. Such evaluation shall include a personal interview of the veteran by a Veterans' Administration employee who is trained in vocational counseling. The Administrator shall provide the veteran with reasonable notice of the schedule for the evaluation.

"(2) If the veteran fails, for reasons other than those beyond the veteran's control, to participate in an evaluation under paragraph (1)(B) of this subsection in the manner required by the Administrator in order to make the determination described in that paragraph, the Administrator shall reduce the veteran's disability rating to the rating that would be applicable to the veteran but for the determination of the veteran's inability to secure or follow a substantially gainful occupation. Any such reduction shall remain in effect for the duration of such failure.

"(3)(A) If, after completion of an evaluation under paragraph (1)(B) of this subsection, the Administrator determines that achievement of a vocational goal by the veteran is reasonably feasible, the Administrator shall formulate an individualized written plan of vocational rehabilitation for the veteran under chapter 31 of this title. 38 USC 1500 *et seq.*

"(B) If the Administrator determines that the veteran has failed to pursue (or to continue to pursue) the vocational rehabilitation program described in such plan, the Administrator shall provide the veteran with notice that, if the veteran fails, for reasons other than those beyond the veteran's control, to initiate or resume pursuit of such program within 60 days after the Administrator provided such notice (or such longer period as the Administrator determines is the shortest period within which it is reasonably feasible for the veteran to initiate or resume pursuit), the Administrator will provide for the results of the evaluation to be considered in the next scheduled review of the veteran's eligibility for a rating of total disability based on inability to secure or follow a substantially gainful occupation. Unless the veteran initiates or resumes such pursuit within such 60 days (or such longer period, if applicable), the Administrator shall provide for such results to be so considered.

"(4) This subsection does not apply with respect to a veteran as to whom the Administrator determines that an evaluation of vocational rehabilitation potential or achievement of a vocational goal is not reasonably feasible.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"363. Temporary program for trial work periods and vocational rehabilitation for certain veterans with total disability ratings.".

(b)(1) Not later than April 1, 1985, the Administrator of Veterans' Affairs shall provide to each veteran described in paragraph (2) a statement providing— 38 USC 363 note.

(A) information explaining the provisions of section 363(b) of title 38, United States Code (as added by subsection (a)(1));

(B) information explaining the purposes and availability of and eligibility for, and the procedures for pursuing, a vocational rehabilitation program under chapter 31 of such title; and

(C) a summary description of the scope of services and assistance available under that chapter.

(2)(A) A veteran to whom a statement is to be provided under paragraph (1) is a veteran who has a service-connected disability, or service-connected disabilities, not rated as total but who, as of January 31, 1985, has been awarded a rating of total disability by reason of a determination of inability to secure or follow a substantially gainful occupation as a result of such disability or disabilities.

(B) Notice under paragraph (1) need not be provided to a veteran who has a rating of total disability described in subparagraph (A) which is protected by the first sentence of section 110 of title 38, United States Code.

(c) Not later than April 15, 1988, the Administrator of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the results of the Report. 38 USC 363 note.

implementation of section 363 of title 38, United States Code (as added by subsection (a)(1)), during the three-year period beginning on February 1, 1985. The report shall include—

(1) information regarding—

(A) the number of veterans with a disability rating of total based on inability to secure or follow a substantially gainful occupation who during such period followed a substantially gainful occupation for a period of twelve consecutive months and the work experience of those veterans and their disability ratings after completing such twelve-month period and (if known) the number of veterans with such a rating who during the period covered by the report followed a substantially gainful occupation but did not maintain employment in it for a period of twelve consecutive months,

(B) the number of veterans who during the period covered by the report were provided with evaluations under subsection (b) of such section,

(C) the number of veterans provided such evaluations for whom a plan of vocational rehabilitation was formulated pursuant to such subsection,

(D) the number of veterans for whom such a plan was formulated who elected, and who did not elect, to pursue a vocational rehabilitation program,

(E) the extent to which those veterans who elected to pursue such a program completed the program, and

(F) the subsequent work experience and disability ratings of the veterans who were provided such evaluations;

(2) a tabulation of the reasons given by such veterans for not electing to pursue such a program by those who did not elect to pursue such a program; and

(3) the Administrator's assessment of the value (including the cost-effectiveness) and effect of such implementation and any recommendations of the Administrator for administrative and legislative action based on such results and assessment.

### TECHNICAL AMENDMENT

38 USC 335.

SEC. 112. (a) Section 335 is amended by striking out "50 per centum" and inserting in lieu thereof "30 percent".

Effective date. 38 USC 335 note.

(b) The amendment made by subsection (a) shall take effect as of October 1, 1978.

## TITLE II—VETERANS' REHABILITATION, EDUCATION, AND EMPLOYMENT PROGRAMS

### PART A—RATE INCREASES

### RATES OF REHABILITATION SUBSISTENCE ALLOWANCES FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES

38 USC 1508.

SEC. 201. The table contained in section 1508(b) is amended to read as follows:

| "Column I | Column II | Column III | Column IV | Column V |
|---|---|---|---|---|
| Type of program | No dependents | One dependent | Two dependents | More than two dependents |
| | | | | The amount in column IV, plus the following for each dependent in excess of two: |
| Institutional training: | | | | |
| Full-time | $310 | $384 | $452 | $33 |
| Three-quarter time. | 233 | 288 | 339 | 25 |
| Half-time | 155 | 193 | 227 | 17 |
| Farm cooperative, apprentice, or other on-job training: | | | | |
| Full-time | 271 | 327 | 377 | 24 |
| Extended evaluation: | | | | |
| Full-time | 310 | 384 | 452 | 33 |
| Independent living training: | | | | |
| Full-time | 310 | 384 | 452 | 33 |
| Three-quarter time. | 233 | 288 | 339 | 25 |
| Half-time | 155 | 193 | 227 | 17". |

### RATES OF GI BILL EDUCATIONAL ASSISTANCE FOR VIETNAM-ERA VETERANS

SEC. 202. Chapter 34 is amended as follows:

(1) The table contained in paragraph (1) of section 1682(a) is amended to read as follows: 38 USC 1682.

| "Column I | Column II | Column III | Column IV | Column V |
|---|---|---|---|---|
| Type of program | No dependents | One dependent | Two dependents | More than two dependents |
| | | | | The amount in column IV, plus the following for each dependent in excess of two: |
| Institutional training: | | | | |
| Full-time | $376 | $448 | $510 | $32 |
| Three-quarter time. | 283 | 336 | 383 | 24 |
| Half-time | 188 | 224 | 255 | 17 |
| Cooperative | 304 | 355 | 404 | 23". |

(2) Section 1682(b) is amended by striking out "$342" and inserting in lieu thereof "$376".

(3) The table contained in section 1682(c) is amended to read as follows:

| “Column I | Column II | Column III | Column IV | Column V |
|---|---|---|---|---|
| Basis | No dependents | One dependent | Two dependents | More than two dependents |
| | | | | The amount in column IV, plus the following for each dependent in excess of two: |
| Full-time | $304 | $355 | $404 | $23 |
| Three-quarter time | 228 | 266 | 303 | 18 |
| Half-time | 152 | 178 | 202 | 12”. |

38 USC 1692. (4) Section 1692(b) is amended by striking out “$76” and “$911” and inserting in lieu thereof “$84” and “$1,008”, respectively.

RATES OF EDUCATIONAL ASSISTANCE FOR SURVIVORS AND DEPENDENTS

Sec. 203. Chapter 35 is amended—

38 USC 1732. (1) by striking out “$276” in section 1732(b) and inserting in lieu thereof “$304”; and

38 USC 1742. (2) by striking out “$342”, “$108”, “$108”, and “$11.44” in section 1742(a) and inserting in lieu thereof “$376”, “$119”, “$119”, and “$12.58”, respectively.

RATES OF TRAINING ALLOWANCES FOR APPRENTICESHIP OR OTHER ON-JOB TRAINING

Sec. 204. Chapter 36 is amended as follows:

38 USC 1786. (1) Section 1786(a)(2) is amended by striking out “$342” and inserting in lieu thereof “$376”.

38 USC 1787. (2) The table contained in section 1787(b)(1) is amended to read as follows:

| “Column I | Column II | Column III | Column IV | Column V |
|---|---|---|---|---|
| Periods of training | No dependents | One dependent | Two dependents | More than two dependents |
| | | | | The amount in column IV, plus the following for each dependent in excess of two: |
| First 6 months | $274 | $307 | $336 | $14 |
| Second 6 months | 205 | 239 | 267 | 14 |
| Third 6 months | 136 | 171 | 198 | 14 |
| Fourth and any succeeding 6-month periods. | 68 | 101 | 131 | 14”. |

38 USC 1798. (3) Section 1798(b)(3) is amended by striking out “$342” and inserting in lieu thereof “$376”.

### EFFECTIVE DATE

SEC. 205. The amendments made by this part shall take effect as of October 1, 1984. 38 USC 1508 note.

## PART B—VETERANS' EMPLOYMENT PROGRAMS

### EXTENSION AND REVISION OF VETERANS READJUSTMENT APPOINTMENT PROGRAM

SEC. 211. (a) Subsection (a) of section 2014 is amended— 38 USC 2014.

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end the following new paragraph:

"(2) For the purposes of this section, the term 'agency' means a department, agency, or instrumentality in the executive branch.".

(b) Subsection (b) of such section is amended—

(1) in paragraph (1)—

(A) by striking out "GS-7" in clause (A) and inserting in lieu thereof "GS-9";

(B) by striking out "and" at the end of clause (B);

(C) by striking out the period at the end of clause (C) and inserting in lieu thereof a semicolon and "and"; and

(D) by adding at the end the following new clause:

"(D) a veteran given an appointment under the authority of this subsection whose employment under the appointment is terminated within one year after the date of such appointment shall have the same right to appeal that termination to the Merit Systems Protection Board as a career or career-conditional employee has during the first year of employment."; and

(2) in paragraph (2), by striking out "September 30, 1984" and inserting in lieu thereof "September 30, 1986".

(c) Subsection (c) of such section is amended—

(1) by striking out "department, agency, and instrumentality in the executive branch" and inserting in lieu thereof "agency"; and

(2) by striking out "such department, agency, or instrumentality" and inserting in lieu thereof "such agency".

(d) Subsections (d) and (e) of such section are amended to read as follows:

"(d) The Office of Personnel Management shall be responsible for the review and evaluation of the implementation of this section and the activities of each agency to carry out the purpose and provisions of this section. The Office shall periodically obtain (on at least an annual basis) information on the implementation of this section by each agency and on the activities of each agency to carry out the purpose and provisions of this section. The information obtained shall include specification of the use and extent of appointments made by each agency under subsection (b) of this section and the results of the plans required under subsection (c) of this section.

"(e)(1) The Office of Personnel Management shall submit to the Congress annually a report on activities carried out under this section. Each such report shall include the following information with respect to each agency: Report.

"(A) The number of appointments made under subsection (b) of this section since the last such report and the grade levels in which such appointments were made.

"(B) The number of individuals receiving appointments under such subsection whose appointments were converted to career or career-conditional appointments, or whose employment under such an appointment has terminated, since the last such report, together with a complete listing of categories of causes of appointment terminations and the number of such individuals whose employment has terminated falling into each such category.

"(C) The number of such terminations since the last such report that were initiated by the agency involved and the number of such terminations since the last such report that were initiated by the individual involved.

"(D) A description of the education and training programs in which individuals appointed under such subsection are participating at the time of such report.

"(2) Information shown for an agency under clauses (A) through (D) of paragraph (1) of this subsection—

"(A) shall be shown for all veterans; and

"(B) shall be shown separately (i) for veterans of the Vietnam era who are entitled to disability compensation under the laws administered by the Veterans' Administration or whose discharge or release from active duty was for a disability incurred or aggravated in line of duty, and (ii) for other veterans.".

### EXTENSION OF EMERGENCY VETERANS' JOB TRAINING ACT PROGRAM

29 USC 1721 note. SEC. 212. (a) Section 5(b)(3)(A) of the Emergency Veterans' Job Training Act of 1983 (Public Law 98-77; 97 Stat. 445) is amended by striking out "60 days" and inserting in lieu thereof "90 days".

29 USC 1721 note. (b) Section 16 of such Act is amended by striking out "September 30, 1986" and inserting in lieu thereof "September 30, 1987".

29 USC 1721 note. (c) The text of section 17 of such Act is amended to read as follows:

"SEC. 17. Assistance may not be paid to an employer under this Act—

"(1) on behalf of a veteran who initially applies for a program of job training under this Act after February 28, 1985; or

"(2) for any such program which begins after September 1, 1985.".

## TITLE III—OTHER BENEFIT RATE INCREASES AND PROGRAM IMPROVEMENTS

### VOCATIONAL TRAINING AND HEALTH-CARE ELIGIBILITY PROTECTION FOR PENSION RECIPIENTS

SEC. 301. (a)(1) Subchapter II of chapter 15 is amended by adding at the end the following new sections:

38 USC 524. **"§ 524. Temporary program of vocational training for certain new pension recipients**

"(a)(1) Subject to paragraph (3) of this subsection, in the case of a veteran under the age of 50 who is awarded pension during the program period, the Administrator shall determine whether the achievement of a vocational goal by the veteran is reasonably feasible. Any such determination shall be made only after evaluation of the veteran's potential for rehabilitation, and any such evaluation shall include a personal interview of the veteran by a

Veterans' Administration employee who is trained in vocational counseling. If the veteran fails, for reasons other than those beyond the veteran's control, to participate in the evaluation in the manner required by the Administrator in order to make such determination, the Administrator shall suspend the veteran's pension for the duration of such failure.

"(2) Subject to paragraph (3) of this subsection, if a veteran who is 50 years of age or older and who is awarded pension during the program period applies for vocational training under this section and the Administrator makes a preliminary finding on the basis of information in the application that, with the assistance of a vocational training program under subsection (d) of this section, the veteran has a good potential for achieving employment, the Administrator shall provide the veteran with an evaluation in order to determine whether the achievement of a vocational goal by the veteran is reasonably feasible. Any such evaluation shall include a personal interview by a Veterans' Administration employee trained in vocational counseling.

"(3) Not more than 2,500 veterans may be given evaluations under this subsection during any 12-month period beginning on February 1 of a year.

"(4) For the purposes of this section, the term 'program period' means the period beginning on February 1, 1985, and ending on January 31, 1989.

"(b)(1) If the Administrator, based upon an evaluation under subsection (a) of this section, determines that the achievement of a vocational goal by a veteran is reasonably feasible, the veteran shall be offered and may elect to pursue a vocational training program under this subsection. If the veteran elects to pursue such a program, the program shall be designed in consultation with the veteran in order to meet the veteran's individual needs and shall be set forth in an individualized written plan of vocational rehabilitation of the kind described in section 1507 of this title.

"(2)(A) Subject to subparagraph (B) of this paragraph, a vocational training program under this subsection shall consist of vocationally oriented services and assistance of the kind provided under chapter 31 of this title and such other services and assistance of the kind provided under that chapter as are necessary to enable the veteran to prepare for and participate in vocational training or employment.

38 USC 1500 *et seq.*

"(B) A vocational training program under this subsection—

"(i) may not exceed 24 months unless, based on a determination by the Administrator that an extension is necessary in order for the veteran to achieve a vocational goal identified (before the end of the first 24 months of such program) in the written plan formulated for the veteran, the Administrator grants an extension for a period not to exceed 24 months;

"(ii) may not include the provision of any loan or subsistence allowance or any automobile adaptive equipment of the kind provided under chapter 39 of this title; and

38 USC 1901 *et seq.*

"(iii) may include a program of education at an institution of higher learning (as defined in sections 1652(b) and 1652(f), respectively, of this title) only in a case in which the Administrator determines that the program involved is predominantly vocational in content.

"(3) When a veteran completes a vocational training program under this subsection, the Administrator may provide the veteran with counseling of the kind described in section 1504(a)(2) of this title, placement and postplacement services of the kind described in section 1504(a)(5) of this title, and training of the kind described in section 1504(a)(6) of this title during a period not to exceed 18 months beginning on the date of such completion.

"(4) A veteran may not begin pursuit of a vocational training program under this subsection after the later of (A) January 31, 1989, or (B) the end of a reasonable period of time, as determined by the Administrator, following either the evaluation of the veteran under subsection (a)(1) of this section or the award of pension to the veteran as described in subsection (a)(2) of this section. Any determination by the Administrator of such a reasonable period of time shall be made pursuant to regulations which the Administrator shall prescribe.

"(c) Notwithstanding subsection (c) of section 525 of this title, a veteran who pursues a vocational training program under subsection (b) of this section shall have the benefit of the provisions of *Infra.* subsection (a) of section 525 of this title beginning at such time as the veteran's entitlement to pension is terminated by reason of income from work or training (as defined in subsection (b) of that section).

"(d) Payments by the Administrator for education, training, and other services and assistance under subsection (b) of this section (other than the services of Veterans' Administration employees) shall be made from the Veterans' Administration appropriations account from which payments for pension are made.

38 USC 525. **"§ 525. Temporary protection of health-care eligibility**

"(a) In the case of a veteran whose entitlement to pension under section 521 of this title is terminated during the program period by reason of income from work or training, the veteran shall retain for a period of three years beginning on the date of such termination all eligibility for care and services under such chapter that the veteran would have had if the veteran's entitlement to pension had not been terminated. Care and services for which such a veteran retains eligibility include, when applicable, drugs and medicines under section 612(h) of this title and special priority with respect to such care and services under section 612(i)(5) of this title.

"(b) For the purposes of this section:

"(1) The term 'terminated by reason of income from work or training' means terminated as a result of the veteran's receipt of earnings from activity performed for remuneration or gain, but only if the veteran's annual income from sources other than such earnings would, taken alone, not result in the termination of the veteran's pension.

"(2) The term 'program period' means the period beginning on February 1, 1985, and ending on January 31, 1989.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 523 the following new items:

"524. Temporary vocational training for certain new pension recipients.
"525. Temporary protection of health-care eligibility.".

Report.
38 USC 524 note. (b) Not later than April 15, 1988, the Administrator of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the results of the implementation of sections 524 and 525 of title 38, United States Code (as added by subsection (a)(1)), during the period beginning on

February 1, 1985, and ending on January 31, 1988. The report shall include—

(1) information regarding—

(A) the number of veterans who during the period covered by the report were provided with evaluations under paragraphs (1) and (2) of subsection (a) of such section 524,

(B) the number of such veterans for whom a vocational goal was determined to be feasible,

(C) the number of such veterans who elected, and who did not elect, to pursue a vocational training program under subsection (b) of that section,

(D) the extent to which those veterans who elected to pursue such a program completed the program,

(E) the subsequent work and pension-eligibility experience of the veterans who were provided with such evaluations, shown according to their participation in and completion of vocational training programs, and

(F) the number of veterans who received the benefit of such section 525;

*Ante*, p. 2746.

(2) a tabulation of the reasons given by such veterans for not electing to pursue such a program by those for whom a vocational goal was determined to be reasonably feasible but who did not elect to pursue such program; and

(3) the Administrator's assessment of the value (including the cost-effectiveness) and effect of such implementation and any recommendations of the Administrator for administrative and legislative action based on such results and assessment.

### REPORT ON MEDICAL EXAMINATIONS OF CERTAIN PENSION RECIPIENTS

38 USC 521 note.

SEC. 302. (a) Not later than twenty-eight months after the date of the enactment of this Act, the Administrator of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing a statistical tabulation of the results of the medical examinations conducted under subsection (b)(1)(A) and the determinations made under subsection (b)(1)(B).

(b)(1) The Administrator—

(A) shall provide for the selection of a sampling of the class of pension recipients described in paragraph (3) to undergo, and each recipient in such sampling shall undergo, a medical examination of the kind provided a veteran under 65 years of age who is applying for pension under section 521 of title 38, United States Code; and

(B) shall determine what, if any, percentage rating would be applicable to the recipient under the schedule of ratings adopted pursuant to section 355 of such title.

(2) The sampling of pension recipients selected under paragraph (1)(A) shall be selected in a manner that is statistically valid for the purpose of estimating the disability ratings of all recipients in the class described in paragraph (3).

(3) The class of pension recipients referred to in paragraphs (1) and (2) are those individuals who, during the two-year period beginning on the date of the enactment of this Act, are awarded pension under section 521 of title 38, United States Code, by reason of being considered, under section 502(a) of such title, to be permanently and

totally disabled by reason of being 65 years of age or older or becoming unemployable after age 65.

### PARTICIPATION IN THERAPEUTIC OR REHABILITATIVE ACTIVITIES

38 USC 618.

SEC. 303. Section 618 is amended by adding at the end the following new subsection:

"(f) Neither a veteran's participation in an activity carried out under this section nor a veteran's receipt of remuneration as a result of such participation may be considered as a basis for the denial or discontinuance of a rating of total disability for purposes of compensation or pension based on the veteran's inability to secure or follow a substantially gainful occupation as a result of disability.".

### SPECIALLY ADAPTED HOUSING ASSISTANCE

38 USC 802.

SEC. 304. (a) Section 802 is amended—

(1) in subsection (a), by striking out "$32,500" and inserting in lieu thereof "$35,500"; and

(2) in subsection (b), by striking out "$5,000" and inserting in lieu thereof "$6,000".

Effective date.
38 USC 802 note.

(b) The amendments made by subsection (a) shall take effect on January 1, 1985.

### AUTOMOBILE AND ADAPTIVE EQUIPMENT ASSISTANCE

38 USC 1902.

SEC 305. (a) Section 1902(a) is amended by striking out "$4,400" and inserting in lieu thereof "$5,000".

38 USC 1903.

(b) Subsection (c) of section 1903 is amended to read as follows:

"(c)(1) An eligible person shall not be entitled to adaptive equipment under this chapter for more than two automobiles or other conveyances at any one time or (except as provided in paragraph (2) of this subsection) during any four-year period.

"(2) In a case in which the four-year limitation in paragraph (1) of this subsection precludes an eligible person from being entitled to adaptive equipment under this chapter, if the Administrator determines that, due to circumstances beyond the control of such person, one of the automobiles or other conveyances for which adaptive equipment was provided to such person during the applicable four-year period is no longer available for the use of such person, the Administrator may provide adaptive equipment to such person for an additional automobile or other conveyance during such period. Provision of adaptive equipment under this paragraph is within the discretion of the Administrator. Any action to provide adaptive equipment under this paragraph shall be made pursuant to regulations which the Administrator shall prescribe.".

Effective date.
38 USC 1903 note.

(c)(1) The amendments made by this section shall take effect on January 1, 1985.

38 USC 1901 *et seq.*

(2) In the case of a person who during the four-year period ending on December 31, 1984, was provided adaptive equipment under chapter 39 of title 38, United States Code, for an automobile or other conveyance and who has such automobile or other conveyance available for use on the date of the enactment of this Act, the first four-year period applicable to such person under subsection (c) of section 1903 of such title (as amended by subsection (a)) shall begin on the most recent date before January 1, 1985, on which such person was provided such equipment.

## TITLE IV—MISCELLANEOUS PROVISIONS

### REPEAL OF ANNUAL REPORTING REQUIREMENT

SEC 401. Section 1796 is amended by striking out subsection (d). 38 USC 1796.

### SUSPENSION OF COMPENSATION AND PENSION PAYMENTS TO CERTAIN INSTITUTIONALIZED VETERANS; WAIVER

97 Stat. 1010.
38 USC 3203.

SEC. 402. (a) Section 3203(b)(1) is amended—

(1) by designating the first and second sentences as subparagraphs (A) and (B), respectively;

(2) in subparagraph (A), as so designated—

(A) by striking out the comma after "treatment" in the first sentence and inserting in lieu thereof "or";

(B) by striking out "by reason of mental illness"; and

(C) by inserting "(excluding the value of the veteran's home unless there is no reasonable likelihood that the veteran will again reside in such home)," after "the veteran's estate"; and

(3) by adding at the end the following new subparagraph:

Waiver.

"(C) The Administrator may waive the discontinuance under this paragraph of payments to a veteran with respect to not more than 60 days of care of the veteran during any calendar year if the Administrator determines that the waiver is necessary in order to avoid a hardship for the veteran. Any such waiver shall be made pursuant to regulations which the Administrator shall prescribe.".

Regulations.
38 USC 3203 note.

(b) The Administrator shall prescribe regulations under subparagraph (C) of section 3203(b)(1) of title 38, United States Code (as added by subsection (a)), not later than 60 days after the date of the enactment of this Act.

Approved October 24, 1984.

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LEGISLATIVE HISTORY—H.R. 5688 (S. 2736):

HOUSE REPORT No. 98-828 (Comm. on Veterans' Affairs).
SENATE REPORT No. 98-604 accompanying S. 2736 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD, Vol. 130 (1984):
June 18, considered and passed House.
Oct. 2, S. 2736 considered and passed Senate; H.R. 5688, amended, passed in lieu.
Oct. 5, House concurred in Senate amendments with an amendment.
Oct. 9, Senate concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 43 (1984):
Oct. 24, Presidential statement.